

**Volume 3**

# **STATUTES OF CALIFORNIA**

**AND DIGESTS OF MEASURES**

**1980**

Constitution of 1879 as Amended

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

**1979–80 Regular Session**



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## CHAPTER 1010

An act relating to domestic water supply systems, 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. Grants not to exceed the following amounts are hereby authorized from the California Safe Drinking Water Fund pursuant to subdivision (d) of Section 13861 of the Water Code to the following entities for the purpose of improving their domestic water supply system to meet, at a minimum, safe drinking water standards:

	<i>Amount</i>
Templeton Community Services District .....	\$400,000
Mission Hills Community Services District .....	400,000
City of Montague .....	400,000
Newhall County Water District.....	400,000
Monroe School District .....	80,000
Santa Ana Mountain County Water District .....	400,000

The Department of Water Resources shall determine eligibility for such grants in accordance with the provisions of Chapter 10.6 (commencing with Section 13880) of Division 7 of the Water Code and may make a grant in accordance with such provisions.

SEC. 2. The Legislature hereby finds and declares that, in order to meet the minimum safe drinking water standards, there is a critical need within the Templeton Community Services District, the Mission Hills Community Services District, the City of Montague, the Newhall County Water District, the Monroe School District, and the Santa Ana Mountain County Water District to immediately undertake certain improvements necessary to enable the residents of these areas to have a dependable and potable water supply.

SEC. 3. The Legislature further finds and declares that the water systems of the Templeton Community Services District, the Mission Hills Community Services District, the City of Montague, the Newhall County Water District, the Monroe School District, and the Santa Ana Mountain County Water District have critical deficiencies which pose a serious threat to the public health and welfare of all consumers within these areas.

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 authorize grants from the California Safe Drinking Water Fund to the Templeton Community Services District, the

the Mission Hills Community Services District, the City of Montague, the Newhall County Water District, the Monroe School District, and the Santa Ana Mountain County Water District to resolve the critical water supply problems of these areas at the earliest possible time, it is necessary that this act go into immediate effect.

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## CHAPTER 1011

An act to amend Section 380 of, and to repeal and add Section 381 to, the Penal Code, relating to poisons, 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 380 of the Penal Code is amended to read:

380. (a) Every person who sells, dispenses or distributes toluene, or any substance or material containing toluene, to any person who is less than 18 years of age shall be guilty of a misdemeanor, and upon conviction shall be fined in a sum of not less than one thousand dollars (\$1,000), nor more than two thousand five hundred dollars (\$2,500), or by imprisonment for not less than six months nor more than one year.

(b) The court shall order the suspension of the business license, for a period of one year, of a person who knowingly violates any of the provisions of this section after having been previously convicted of a violation of this section unless the owner of such business license can demonstrate a good faith attempt to prevent illegal sales or deliveries by employees. The provisions of this subdivision shall become operative on July 1, 1980.

(c) The provisions of this section shall apply to, but are not limited to, the sale or distribution of glue, cement, dope, paint thinners, paint, and any combination of hydrocarbons either alone or in combination with any substance or material including, but not limited to, paint, paint thinners, shellac thinners, and solvents which, when inhaled, ingested or breathed, can cause a person to be under the influence of, or intoxicated from, any such combination of hydrocarbons.

This section shall not prohibit the sale of gasoline or other motor vehicle fuels to persons less than 18 years of age.

(d) This section shall not apply to any glue or cement which has been certified by the State Department of Health Services as containing a substance which makes such glue or cement malodorous or causes such glue or cement to induce sneezing, nor shall this section apply where the glue or cement is sold, delivered, or given away simultaneously with or as part of a kit used for the construction

of model airplanes, model boats, model automobiles, model trains, or other similar models or used for the assembly or creation of hobby craft items using such components as beads, tiles, tiffany glass, ceramics, clay, or other craft-related components.

SEC. 2. Section 381 of the Penal Code is repealed.

SEC. 3. Section 381 is added to the Penal Code, to read:

381. (a) Any person who possesses toluene or any substance or material containing toluene, including, but not limited to, glue, cement, dope, paint thinner, paint and any combination of hydrocarbons, either alone or in combination with any substance or material including but not limited to paint, paint thinner, shellac thinner, and solvents, with the intent to breathe, inhale or ingest for the purpose of causing a condition of intoxication, elation, euphoria, dizziness, stupefaction, or dulling of the senses or for the purpose of, in any manner, changing, distorting or disturbing the audio, visual, or mental processes, or who knowingly and with the intent to do so is under the influence of toluene or any material containing toluene, or any combination of hydrocarbons is guilty of a misdemeanor.

(b) Any person who possesses any substance or material, which the State Department of Health Services has determined by regulations adopted pursuant to the Administrative Procedures Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) has toxic qualities similar to toluene, with the intent to breathe, inhale, or ingest for the purpose of causing a condition of intoxication, elation, euphoria, dizziness, excitement, irrational behavior, exhilaration, satisfaction, stupefaction, or dulling of the senses or for the purpose of, in any manner, changing, distorting or disturbing the audio, visual, or mental processes, or who is under the influence of such substance or material is guilty of a misdemeanor.

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 such necessity are:

In order to clarify provisions of law which will go into operation on July 1, 1980, it is necessary that this act go into immediate effect.

## CHAPTER 1012

An act to amend Section 1300 of the Business and Professions Code, to amend Sections 436.53, 543, 544, 10605, 10612, 11887, 25694, 25696, 25697, and 26688 of, and to add Sections 113, 114, and 114.1 to, and to repeal Section 10362 of, the Health and Safety Code, relating to fees.

[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 Legislature hereby finds:

(a) The costs of programs and services covered by this act are supported in part by the General Fund and in part by fees or charges, and are increasing due to the escalation of salaries and operating expenses.

(b) In order to meet the steadily escalating costs of these programs and services it is necessary to provide for annual adjustments based upon actual operating increases.

**SEC. 2.** Section 1300 of the Business and Professions Code is amended to read:

1300. The amount of application and license fee under this chapter shall be as follows:

(a) The application fee for a histocompatibility laboratory director's, clinical laboratory bioanalyst's, clinical chemist's, or clinical microbiologist's license is twenty-five dollars (\$25).

(b) The annual renewal fee for a histocompatibility laboratory director's, clinical laboratory bioanalyst's, clinical chemist's, or clinical microbiologist's license is twenty-five dollars (\$25).

(c) The application fee for a clinical laboratory technologist's or limited technologist's license is fifteen dollars (\$15).

(d) The annual renewal fee for a clinical laboratory technologist's or limited technologist's license is ten dollars (\$10).

(e) The application fee for a clinical laboratory license is one hundred dollars (\$100); provided, however, that when the applicant is the state or any agency or official thereof, or a district, city, county or city and county, or an official thereof, no fee shall be required.

(f) The annual renewal fee for a clinical laboratory license is one hundred dollars (\$100); provided, however, that when the applicant is the state or any agency or official thereof, or a district, city, county, or city and county, or official thereof, no fee shall be required.

(g) The application fee for a trainee's license is five dollars (\$5).

(h) The annual renewal fee for a trainee's license is three dollars (\$3).

(i) The application fee for a duplicate license is two dollars (\$2).

(j) The delinquency fee is ten dollars (\$10).

**SEC. 3.** Section 113 is added to the Health and Safety Code, to read:

113. (a) The fees or charges for the issuance or renewal of any permit, license, or registration pursuant to Section 1300 of the Business and Professions Code, or Sections 436.53, 543, 544, 545, 546, 547, 1616, 1676, 1677, 4042, 4042.2, 4042.3, 11887, 25817, 25694, 25696, 25697, 26688, 27010, 27011, 28126, 28410, 28411, and 28702 of this code, shall be adjusted annually by the percentage change printed in the Budget Act for those items appropriating funds to the department. The percentage change shall be determined by the Department of Finance, and shall include at least the total percentage change in salaries and operating expenses of the department. However, the total increase in amounts collected under this section shall not exceed the total increased cost of the program or service provided.

(b) The department shall annually publish a list of the actual numerical fee charges for each permit, license, certification or registration governed by this section.

(c) The Legislative Analyst shall review any proposed adjustments pursuant to this section, and submit written comments on such proposed adjustments to the Legislature.

SEC. 4. Section 114 is added to the Health and Safety Code, to read:

114. (a) The fees or charges for the issuance of any certificate, permit, registration, or any other document pursuant to Sections 26840 and 26859 of the Government Code, or Sections 10375, 10376.8, 10400, 10420, 10430, 10433.3, 10450, 10455, 10470, 10475, 10500, 10550, 10575, 10605, 10606, 10610, 10610.2, 10612, 10613, 10614, 10615, 10616, 10617, 10618, and 10619 of this code, may be adjusted annually by the percentage change determined pursuant to Section 113. The percentage change shall be applied to the statutory base amount of the fee or charge applicable on January 1, 1981, until the percentage increase reaches the next whole dollar. Thereafter, the base amount shall be each whole dollar amount reached after applying the annual percentage increase in the State Budget. However, the total amounts collected under this section shall not exceed the total cost of the program or service provided.

(b) The Legislative Analyst shall review any proposed adjustments pursuant to this section, and submit written comments on such proposed adjustments to the Legislature.

SEC. 5. Section 114.1 is added to the Health and Safety Code, to read:

114.1. For the fee specified in Section 26840 of the Government Code, the adjustment shall apply only to the portion of the fee designated for the State Registrar of Vital Statistics. Any increase in this component of the fee shall be added to the total fee authorized by Section 26840.

SEC. 6. Section 436.53 of the Health and Safety Code is amended to read:

436.53. Each laboratory in this state which performs the tests referred to in Sections 436.51 and 436.52, shall be licensed by the State Director of Health Services. Each such laboratory, other than a

laboratory operated by the state, city or county or other public agency shall upon application for licensing pay a fee to the State Department of Health Services in an amount, to be determined by the department, which will reimburse the department for the costs incurred by the state department in the issuance and renewal of such licenses. On or before each January 1 of each year thereafter, each such laboratory shall pay to the state department a fee so determined by the state department.

SEC. 7. Section 543 of the Health and Safety Code is amended to read:

543. A nonreturnable application fee, as determined by the department, shall be paid by a person each time he applies for registration as a sanitarian under the provisions of this article. A nonreturnable examination fee, as determined by the department, shall be paid by a person each time he applies to take the examination authorized by subdivision (b) of Section 542.

SEC. 8. Section 544 of the Health and Safety Code is amended to read:

544. A nonreturnable biennial renewal fee, as determined by the department, shall be paid by each registered sanitarian on or before the first day of January of every second year, or on such other date as determined by the department. Each sanitarian registered on or after the effective date of this section, shall first pay the biennial fee at the time of initial registration to cover the calendar year in which registration is acquired and the following calendar year.

SEC. 9. Section 10362 of the Health and Safety Code is repealed.

SEC. 10. Section 10605 of the Health and Safety Code is amended to read:

10605. A fee of three dollars (\$3) shall be paid by the applicant for a certified copy of a birth, fetal death, death, marriage, or marriage dissolution record.

Each local registrar or county recorder collecting a fee pursuant to this section shall transmit 15 percent of the fee for each certified copy to the State Registrar by the 10th day of the month following the month in which the fee was received.

SEC. 11. Section 10612 of the Health and Safety Code is amended to read:

10612. A fee of eleven dollars (\$11) shall be paid to the State Registrar by the applicant at the time of application for a delayed birth registration under the provisions of Chapter 9 (commencing with Section 10500) or a court order to establish a record of birth, death, or marriage pursuant to Chapter 10 (commencing with Section 10550) of this division. Upon acceptance of the application the State Registrar shall retain the fee.

SEC. 12. Section 11887 of the Health and Safety Code is amended to read:

11887. Each laboratory in this state which performs the test referred to in Section 11886 shall be licensed by the State Director of Health Services. Each such laboratory, other than a laboratory

operated by the state, county, city, or city and county, other public agency, or a clinical laboratory licensed pursuant to subdivision (f) of Section 1300 of the Business and Professions Code, shall, upon application for licensing, pay a fee to the State Department of Health Services in an amount to be determined by such department, which will reimburse the department for the costs incurred by the department in the issuance and renewal of such licenses. On or before July 1 of each year thereafter, each such laboratory shall pay to the State Department of Health Services a fee so determined by such department, for the renewal of its license.

SEC. 13. Section 25694 of the Health and Safety Code is amended to read:

25694. (a) The application fee for any certificate or permit issued pursuant to this chapter shall be fixed by the board in such amount as it deems reasonably necessary to carry out the purpose of this chapter.

(b) The fee for any examination conducted pursuant to this chapter after failure of such an examination within the previous 12 months shall be fixed by the board in an amount it deems reasonably necessary to carry out the provisions of this chapter.

(c) The annual renewal fee for each certificate or permit shall be fixed by the board in an amount it deems reasonably necessary to carry out the provisions of this chapter.

(d) The penalty fee for renewal of any certificate or permit if application is made after its date of expiration shall be five dollars (\$5) and shall be in addition to the fee for renewal prescribed by subdivision (c).

(e) The fee for a duplicate certificate or permit shall be one dollar (\$1).

(f) No fee shall be required for a certificate or permit or a renewal thereof except as prescribed in this chapter.

SEC. 14. Section 25696 of the Health and Safety Code is amended to read:

25696. The department may establish a schedule of fees for permits issued pursuant to subdivisions (c) and (e) of Section 25668, and Sections 25670, 25699.1, and 25699.2, provided that the revenue from such fees shall be related to the costs of administering the provisions of this chapter.

SEC. 15. Section 25697 of the Health and Safety Code is amended to read:

25697. The department may establish a schedule of fees to be paid by schools applying for approval as approved schools for radiologic technologists and, on an annual basis, by schools which are included on the department's list of approved schools for radiologic technologists.

SEC. 16. Section 26688 of the Health and Safety Code is amended to read:

26688. The department shall by regulation establish the application form and set the fee for licensure and renewal of a

license. The penalty for failure to apply for renewal of a license within 30 days after its expiration is ten dollars (\$10) and shall be added to the renewal fee and be paid by the applicant before the renewal license may be issued. All moneys collected as fees shall be expended when appropriated by the Legislature in the carrying out of the provisions of this division and the regulations adopted pursuant to this division.

Any person licensed pursuant to this section shall immediately notify the department of any change in the information reported in the license application.

SEC. 17. 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.

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## CHAPTER 1013

An act to amend Section 25603.5 of the Public Resources Code, and to amend Section 3 of Chapter 1367 of the Statutes of 1978, relating to energy, 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 25603.5 of the Public Resources Code is amended to read:

25603.5. (a) Pursuant to the duties of the commission described in subdivision (a) of Section 25401 and Section 25603, the commission shall conduct a statewide architectural design competition to select outstanding designs for new single-family and multifamily residential units which incorporate passive solar and other energy-conserving design features.

The purpose of the competition, to be known as the "State Solar Medallion Passive Design Competition", is to demonstrate the technical and economic feasibility of passive solar design for residential construction, to speed its commercialization, and to promote its use by developers in housing for moderate-income families in the state. The competition shall be carried out with the assistance and cooperation of the Office of the State Architect.

(b) The competition shall be conducted for each of the state's six regional climate zones. Each climate zone shall have the following four categories of competition:

(1) Single-family dwellings. The construction costs of these

dwellings shall not exceed thirty-five thousand dollars (\$35,000) and the market price, inclusive of land, construction, permits, fees, overhead and profit shall not exceed fifty-five thousand dollars (\$55,000); provided that, if the commission determines that, as of the date construction is completed, the cost of housing construction in this state has increased due to economic inflation since January 1, 1979, the commission may increase these sums by the amount of such inflation as indicated by the construction cost index.

(2) Single-family dwellings. The construction costs of these dwellings shall not exceed fifty-five thousand dollars (\$55,000) and the market price, inclusive of land, construction, permits, fees, overhead and profit shall not exceed eighty-five thousand dollars (\$85,000); provided that, if the commission determines that, as of the date construction is completed, the cost of housing construction in this state has increased due to economic inflation since January 1, 1979, the commission may increase these sums by the amount of such inflation as indicated by the construction cost index.

(3) Multifamily housing units with a market price or rental value comparable to paragraph (1) of this subdivision.

(4) Multifamily housing units with a market price or rental value comparable to paragraph (2) of this subdivision.

(c) In order to qualify for the competition, entrants shall be a team composed of at least one member from each of the following categories:

(1) A building designer or architect.

(2) A builder, developer, or contractor.

(d) With submission of designs to the competition, all entrants shall agree to comply with the following provisions, if awarded the Solar Medallion or the first place prize in any category:

(1) To build five models of the winning design for single-family home categories if the builder, developer, or contractor member of the winning team constructed more than 30 single-family detached units during the one-year period ending on the date of the award, or

(2) To build three models of the winning design for single-family home categories if the builder, developer, or contractor member of the winning team constructed 30 or fewer single-family detached units during the one-year period ending on the date of the award, or

(3) To build one model of the winning design for all multifamily categories.

(4) To commence construction within 18 months of the announcement of awards.

(5) To permit the commission to install monitoring equipment for measuring energy conservation performance of the structure on all models constructed in compliance with paragraphs (1), (2), and (3) of this subdivision.

(6) To permit the commission to document, exhibit, and publicize the constructed designs.

All models of winning designs shall be built on the site or sites described in the submission or on an alternate site or sites with

comparable features.

Cash awards to authors of the winning designs may be made prior to commencement of the agreed upon construction.

All winning designs in the competition shall become the property of the state and may be published and exhibited by the state after completion of competition.

(e) The judging panel for the competition shall consist of the following five jurors:

- (1) One representative of the Office of the State Architect.
- (2) One representative of the commission.
- (3) One certificated architect.
- (4) One representative of the state's lending institutions.
- (5) One developer, builder, or contractor.

The nonagency members shall be appointed by the State Architect.

In recognition of the wide variation in construction costs statewide, and in order to ensure fair and equitable competition in all areas of the state, a cost index shall be used to determine different construction cost and market price requirements for each category of competition in the major metropolitan areas of the state. The construction cost and market price figures specified in paragraphs (1) and (2) of subdivision (b) shall be used as the upper limit values on which the index shall be based. Construction cost and market price figures reflecting the diversity in costs in different areas of the state shall be determined in relation to upper limit values specified in this section.

The cost index shall be prepared by the Office of the State Architect and shall be published in the competition program.

The evaluation shall take place in two stages, with an initial technical review by the commission staff. The staff shall submit to the judging panel a rigorous 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 passive solar and other energy conserving design features.

(2) Amount of energy savings achieved by the design.

(3) Adaptability of the design to widespread use.

(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 shall accomplish the following tasks:

(1) Preparation of a competition program, including climatological data for each of the six regional climate zones.

(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 dwellings constructed in accordance with requirements of this section; instrumentation for measurement of energy conservation performance of the units 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 Office of the State Architect for materials and services that cannot be performed by its staff.

(g) Cash awards to authors of the winning designs shall be made on the following basis:

Using the criteria in subdivision (e) of this section, the judging panel shall select, as follows:

(1) The most outstanding design statewide selected from among the first place winners in either of two single-family categories in any of the six climate zones which shall receive the State Solar Medallion Award and five thousand dollars (\$5,000) in addition to the cash award specified in paragraph (3) of this subdivision.

(2) The most outstanding design statewide selected from among the first place winners in either of the two multifamily categories in any of the six climate zones which shall receive the State Solar Medallion Award and five thousand dollars (\$5,000) in addition to the cash award specified in paragraph (3) of this subdivision.

(3) The first place designs in each of the four competition categories within each of the six climate zones, which shall each receive a cash award of five thousand dollars (\$5,000).

(4) The second place designs in each of the four competition categories within each of the six climate zones, which shall each receive a cash award of two thousand dollars (\$2,000).

SEC. 2. Section 3 of Chapter 1367 of the Statutes of 1978 is amended to read:

Sec. 3. The sum of three hundred fifteen thousand dollars (\$315,000) is hereby appropriated from the State Energy Resources Conservation and Development Reserve Account in the General Fund to the State Energy Resources Conservation Development Commission in order to conduct the State Solar Medallion Passive Design Competition under Section 25603.5 of the Public Resources Code, to be allocated on the following basis:

(1) One hundred thirty-seven thousand dollars (\$137,000) for administration of the competition and duties described in Section 25603.5 of the Public Resources Code, except for the purposes of paragraph (5) of subdivision (f) of Section 25603.5 of the Public Resources Code, for which funds are currently available.

(2) One hundred seventy-eight thousand dollars (\$178,000) for cash awards to winning competitors pursuant to subdivision (g) of

Section 25603.5 of the Public Resources Code.

Such funds shall be used exclusively for actual expenses incurred in carrying out the purposes of this act. Any funds not expended for such purposes by January 1, 1983, shall revert to the State Energy Resources Conservation and Development Reserve Account in the General Fund.

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## CHAPTER 1014

An act to amend, add, and repeal Section 8836 of, and to amend Section 8836.5 of, the Government Code, relating to public broadcasting.

[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 8836 of the Government Code, as added by Section 2 of Chapter 1068 of the Statutes of 1978, is amended to read:

8836. The commission shall annually distribute the total amount, less the commission's necessary administrative expenses, available from the California Public Broadcasting Fund for allocation to public broadcasting stations.

This section shall remain in effect only until July 1, 1981, and as of that date is repealed.

**SEC. 2.** Section 8836 is added to the Government Code, to read:

8836. The commission shall annually distribute the total amount, less the commission's necessary administrative expenses, available from the California Public Broadcasting Fund for allocation to public broadcasting stations. The commission shall reserve for distribution among the public broadcasting stations an amount not less than 25 percent of the television budget and not less than 25 percent of the radio budget for use at each station's discretion, in activities related to its local community broadcast operations.

This section shall become operative on July 1, 1981.

**SEC. 3.** Section 8836.5 of the Government Code is amended to read:

8836.5. The commission shall, after consultation with the radio, television, and instructional broadcast committees, establish, and review annually, criteria and conditions regarding the distribution of amounts disbursed from the California Public Broadcasting Fund to the various public television and radio stations.

Amounts disbursed under this article shall be used to finance projects that will augment the ability of public broadcasting stations to serve their communities in accordance with a formula established by the commission. These amounts shall not be used to supplant funds already budgeted.

## CHAPTER 1015

An act to add Section 4026.1 to the Health and Safety Code, relating to drinking water, 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 4026.1 is added to the Health and Safety Code, to read:

4026.1. On or before July 1, 1981, the department shall establish a program for detecting and monitoring organic chemical contaminants in drinking water delivered by public water systems. In establishing the program, the department shall do the following:

(a) Establish a list of organic chemicals other than those for which primary drinking water standards have been adopted by the department which, if present in significant concentrations in drinking water, may have an adverse effect on the health of persons. The department shall cooperate with the State Water Resources Control Board and the Department of Food and Agriculture in establishing the list required by this subdivision. In selecting the organic chemicals to be placed on the list, the department shall make use of the following criteria:

- (1) Possible adverse health risks.
- (2) Patterns of use and disposal in California.
- (3) Quantities used or disposed of in California.
- (4) Potential for contaminating drinking water supplies because of environmental persistence or resistance to natural degradation under conditions existing in California.

The department may revise the list and is authorized to add or remove organic chemicals based on relevant information which becomes available to it after the list has been established and based on its experience in detecting the presence of organic chemicals in drinking water under the sampling and testing program developed pursuant to subdivision (b).

(b) The department shall prepare and submit to the Legislature on or before December 1, 1980, a plan to implement the provisions of subdivision (a).

Such plan shall include, but is not limited to, considerations to minimize state costs.

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 determine, control, and correct contamination of the waters of the state for the protection of the public health,

environment, and welfare at the earliest practical time, it is necessary for this act to take immediate effect.

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## CHAPTER 1016

An act making an appropriation to the University of California for support of a medical center at San Diego, 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 Legislature hereby finds and declares that the property within the University of California Medical Center, San Diego, which is presently being leased from the County of San Diego, and other properties which are functionally related to the medical center owned by the County of San Diego, should be owned by the Regents of the University of California.

The Legislature also finds and declares that it would promote the economy of the state, provide for the continuation of existing medical education programs, assist the County of San Diego to consolidate mental health facilities, and resolve current University of California land acquisition planning problems pertaining to the medical center, if the university acquired the leased premises and the other properties which are functionally related to the medical center. Thus, the Legislature declares that it would be in the best interests of the state for the University of California to acquire the property within the University of California Medical Center, San Diego, which is presently being leased from the County of San Diego, and other properties which are functionally related to the medical center owned by the County of San Diego.

The Legislature further finds and declares that the sale will constitute an ongoing material benefit to the County of San Diego and its residents and, notwithstanding any other provisions of law, the sale should be completed immediately in accordance with Section 14000.2 of the Welfare and Institutions Code, except that prior to the execution of the revised operating agreement the County of San Diego shall hold a public hearing thereon after 30 days public notice.

**SEC. 2.** There is hereby appropriated from the Capital Outlay Fund for Public Higher Education to the Regents of the University of California the sum of seventeen million three hundred twenty thousand dollars (\$17,320,000) to be apportioned according to the following schedule:

- (a) For the acquisition of County of San Diego properties, includ-

ing University Hospital, San Diego County, County Mental Health Facility, laundry facility, powerplant and building and equipment maintenance facilities, the sites therefor, and the unattached furnishings, equipment, and apparatus in the hospital and powerplant.... \$17,070,000 provided, that funds appropriated by this subdivision shall be available for expenditure only on the condition that a revised agreement between the university and the county for health care services has been executed.

(b) For planning and working drawings for seismic structural corrections to the University Hospital, San Diego County .... \$250,000 provided, that funds appropriated by this subdivision shall be available for expenditure only on the condition that the Regents of the University of California provide equivalent matching funds from nonstate funds.

The appropriation made pursuant to this section shall be available for expenditure until July 1, 1983, and allocation of the funds for acquisition and for planning and working drawings shall be approved by the State Public Works Board.

If Assembly Bill No. 2973 of the 1979-80 Regular Session is chaptered, the appropriation made pursuant to this section shall be deemed an appropriation on or after July 1, 1980, from the funds made available for appropriation from the Capital Outlay Fund for Public Higher Education in the 1980-81 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:

This act makes an appropriation to the Regents of the University of California to purchase property within the University of California Medical Center, San Diego, which is presently being leased from the County of San Diego, and other properties which are functionally related to the medical center. In order to promote the economy of the state, to provide for the continuation of existing medical education programs, to assist the County of San Diego in consolidating mental health facilities, to allow the University of California to resolve current land acquisition planning problems pertaining to the center, and to correct seismic deficiencies in the properties, at the earliest possible time, it is necessary that this act go into immediate

effect.

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## CHAPTER 1017

An act to amend Sections 6894.2, 6894.6, 6894.10, 6894.14, 6915, 6915.4, 6915.5, and 6916.1 of, to amend and renumber Section 6917 of, and to repeal and add Section 6915.1 and 6916 of, the Business and Professions Code, relating to collection agencies.

[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 6894.2 of the Business and Professions Code is amended to read:

6894.2. (a) Every person who has not previously registered under this article and who enters the employ of a licensee after the effective date of this article shall file with the chief an application for registration within 15 days after the commencement of such employment.

(b) Each person licensed under this chapter shall notify the chief in writing within 15 days after the commencement of employment by him of any person registered under this article. The notice shall be on a form prescribed by the chief. A violation of the provisions of this subdivision by a licensee constitutes grounds for the suspension or revocation of his license.

SEC. 2. Section 6894.6 of the Business and Professions Code is amended to read:

6894.6. Employees of a licensee who are engaged exclusively in sales or stenographic, typing, filing or other clerical activities shall not be required to register under this article.

SEC. 3. Section 6894.10 of the Business and Professions Code is amended to read:

6894.10. On or before June 30 of each year, a registered person shall apply for continuation of his registration and pay the registered employee continuation fee prescribed by this chapter. Within 15 days after notification by the chief of noncontinuance of a registration, a person licensed under this chapter shall notify the chief of the termination of employment of the employee, unless he has complied with the requirements of this section within such 15 days.

SEC. 4. Section 6894.14 of the Business and Professions Code is amended to read:

6894.14. No person who is licensed as a reposessor under Chapter 11 (commencing with Section 7500) of Division 3 of this code shall be registered as an employee under this chapter unless such person holds a collection agency license under this chapter or

unless the collection agency by whom he is employed holds a repossessor license.

SEC. 5. Section 6915 of the Business and Professions Code is amended to read:

6915. Every licensee who is required to maintain a trust account pursuant to this chapter shall prepare a trust reconciliation statement for the period of January 1 through June 30 and the period of July 1 through December 31 each year. The statement ending June 30 shall be verified and signed by the qualified manager of record on or before July 31 of the same calendar year. The statement ending December 31 shall be verified and signed by the qualified manager of record on or before January 31 of the following calendar year.

The statement and accompanying bank statements shall be maintained at the licensee's California address of record for at least three years from the last day of the period covered by the statement. Each statement shall be prepared on a form furnished by the bureau and shall show the following:

(a) The total amount of money owing and unremitted to customers as of the close of business on the last day of business of the preceding month.

(b) The total amount on deposit in the licensee's trust account and available for immediate distribution to customers as of the close of business on the last day of business of the preceding month, together with the title of the trust account and the name of the bank where the funds are deposited.

(c) The total amount of the customers' share of all money collected more than 60 days before the last day of business of the preceding month and not remitted on or before the last day of business of the preceding month.

(d) Where a customer's share of any money collected more than 60 days before the last day of business of the preceding month and not remitted on or before the last day of business of the preceding month exceeds ten dollars (\$10), the name of the customer, and the amount of the customer's share of the money collected.

Each statement shall be verified by the qualified certificate holder in active charge of the agency.

Any false statement shall constitute prima facie evidence of willful violation of this chapter and be grounds for institution of disciplinary proceedings against the licensee and the person executing the false statement on behalf of the licensee.

SEC. 6. Section 6915.1 of the Business and Professions Code is repealed.

SEC. 7. Section 6915.1 is added to the Business and Professions Code, to read:

6915.1. The chief shall demand photocopies of trust reconciliation statements and accompanying bank statements from a portion of or all licensees during each calendar year. Upon written demand by the chief, the licensee shall provide photocopies of the trust reconciliation statement and accompanying bank statements to the

bureau for the period or periods described in the demand within 30 days. The chief may also demand photocopies of bank statements for periods subsequent to the preparation of the last required statement which shall also be provided within 30 days of demand. The demand shall be addressed to the licensee's California address of record and sent by registered mail with return receipt requested.

SEC. 8. Section 6915.4 of the Business and Professions Code is amended to read:

6915.4. The provisions of this article shall not preclude the director from inspecting, examining, or investigating the business, including the books, accounts, records, and files used therein by the licensee, on such basis and on such occasion as shall be necessary to insure compliance with this chapter and any rule or regulation adopted by the director pursuant to this chapter. For the purposes of this provision, the director shall have free access to the offices and places of business, books, accounts, records, papers, files, safes, and vaults of all licensees.

When an audit is performed as a consequence of information disclosed by the trust reconciliation statements or the bank statements filed pursuant to Section 6915.1, the cost of such audit shall be charged to and paid by the licensee in accordance with rates established by regulations adopted by the director, subject to a maximum of seven hundred fifty dollars (\$750) for any one audit. If the licensee fails to pay such charge within 60 days after the date of the bureau's notice that the charge is due, his license shall forthwith be revoked. No licensee shall be required to pay a charge for any inspection, examination, investigation, or audit of his business under this chapter except to the extent provided for by this section.

SEC. 9. Section 6915.5 of the Business and Professions Code is amended to read:

6915.5. The information contained in the trust reconciliation statements and bank statements and reports of examination and audit shall be confidential and not a public record, but, where relevant, shall be admissible in evidence in any administrative hearing or judicial action or proceeding.

SEC. 10. Section 6916 of the Business and Professions Code is repealed.

SEC. 11. Section 6916 is added to the Business and Professions Code, to read:

6916. If the trust reconciliation statements and photocopies of accompanying bank statements are not provided within 30 days of demand, the license of such licensee may be revoked. If an audit or investigation discloses that trust reconciliation statements and accompanying bank statements are not maintained and available at the licensed address of record as required by this article, the license of such licensee may be revoked.

SEC. 12. Section 6916.1 of the Business and Professions Code is amended to read:

6916.1. A license revoked or voided under the provisions of

Sections 6900, 6902, 6915.4, or 6916 may be reinstated within six months of the date of revocation upon the application of the licensee, upon his complying with the rules and regulations adopted hereunder and upon the payment of the reinstatement fee provided by Section 6956. Reinstatement of a revoked or voided license does not prohibit the bringing of disciplinary proceedings for any act committed between the date of revocation and the date of reinstatement.

SEC. 13. Section 6917 of the Business and Professions Code is amended and renumbered to read:

6926.1. Within 60 days after any payment is received on any claim or account, the licensee shall render a written statement of account to the customer setting forth all payments or credits received together with all charges and deductions made since the last preceding statement, except that a licensee need not account for:

(a) Court costs recovered which were previously advanced by the licensee.

(b) Attorney fees and interest or other charges incidental to the principal amount of the obligation legally and properly belonging to the licensee, if such credits are retained by the licensee after the principal amount of the obligation has been accounted for and remitted to the customer.

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## CHAPTER 1018

An act to amend Section 117.9 of, and to add and repeal Sections 117.19 and 117.20 of, the Code of Civil Procedure, relating to small claims court judgments.

[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 117.9 of the Code of Civil Procedure is amended to read:

117.9. If the judgment or order be against the defendant or cross-defendant, he or she shall pay the same forthwith or at any time and upon such terms and conditions as the judge shall prescribe.

Immediately upon receipt of payment of the judgment, the judgment creditor or his assignee shall file with the court an acknowledgment of satisfaction of judgment. Any judgment creditor or assignee who, after payment in full of the judgment, and after written demand by the judgment debtor fails without just cause for a period of 15 days to execute, and file such acknowledgment of satisfaction with the court is liable to the judgment debtor 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 fifty dollars (\$50).

SEC. 2. Section 117.19 is added to the Code of Civil Procedure, to read:

117.19. (a) Whenever a claim is filed under this chapter against a person operating or doing business under a fictitious business name, as defined in Section 17900 of the Business and Professions Code, which relates to the person's business, the judge shall inquire at the time of the hearing whether the name of the person is the legal name under which the business or person has been licensed, registered, incorporated, or otherwise authorized to do business. If the legal name of the person is other than the name specified on the claim, the judge shall order the plaintiff's claim to be amended to conform to the legal name of the business. The plaintiff may request the court at any time, including after judgment, to amend the claim of the plaintiff or the judgment to conform to the legal name of the person against whom the claim was filed.

(b) At the time judgment is rendered, or notice thereof is mailed to the parties, the clerk shall provide the judgment debtor with a form containing questions regarding the nature and location of any assets of the judgment debtor. The judgment debtor shall complete the form and cause it to be delivered to the judgment creditor within 35 days after the clerk has mailed by first-class mail notice of entry of judgment unless the judgment has been satisfied. In the event a motion to vacate the judgment or an appeal is filed, a judgment debtor shall complete and deliver the form within 30 days after entry of judgment on the motion or on the appeal. In case of willful failure by the judgment debtor to comply with this subdivision, the judgment creditor may request the court to apply the sanctions provided in Section 714 of the Code of Civil Procedure. The Judicial Council shall approve or adopt the form to be used for the purpose of this subdivision.

SEC. 3. Section 117.20 is added to the Code of Civil Procedure, to read:

117.20. All fees paid, except service of process fees paid to a registered process server, and all documents and papers filed with respect to any small claims action or any judgment or execution of judgment in any small claims action may, upon the request of a party, be made or delivered to the clerk of the small claims division.

The clerk of the small claims court, upon the request of the judgment creditor, and upon payment of any necessary postage, shall deliver or cause to be delivered in a timely manner to the recorder the abstract of judgment along with the fees therefor.

SEC. 4. Sections 117.19 and 117.20 of the Code of Civil Procedure, as added by Sections 2 and 3 of this act, shall remain in effect only until June 1, 1983, and as of such date are repealed, unless a later enacted statute which becomes operative prior to that date deletes or extends such date.

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.

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## CHAPTER 1019

An act to amend Sections 11471, 11477, and 11478 of, to amend and renumber Sections 11473, 11474, and 11474.5 of, to add Section 11474 to, and to repeal Sections 11472, 11485, and 11486 of, the Health and Safety Code, relating to controlled substances.

[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 11471 of the Health and Safety Code is amended to read:

11471. Property subject to forfeiture under this division may be seized by any peace officer upon process issued by any court having jurisdiction over the property. Seizure without process may be made if any of the following situations exist:

(a) The seizure is incident to an arrest or a search under a search warrant.

(b) The property subject to seizure has been the subject of a prior judgment in favor of the state in a criminal injunction or forfeiture proceeding based upon this division.

(c) There is probable cause to believe that the property is directly or indirectly dangerous to health or safety.

(d) There is probable cause to believe that the property was used or is intended to be used in violation of this division.

SEC. 2. Section 11472 of the Health and Safety Code is repealed.

SEC. 3. Section 11473 of the Health and Safety Code is amended and renumbered to read:

11472. Controlled substances and any device, contrivance, instrument, or paraphernalia used for unlawfully using or administering a controlled substance, which are possessed in violation of this division, may be seized by any peace officer and in the aid of such seizure a search warrant may be issued as prescribed by law.

SEC. 4. Section 11474 of the Health and Safety Code is amended and renumbered to read:

11473. All seizures under provisions of this chapter, except seizures of vehicles, boats, or airplanes, shall, upon conviction of the owner or defendant, be ordered destroyed by the court in which conviction was had.

SEC. 5. Section 11474.5 of the Health and Safety Code is amended

and renumbered to read:

11473.5. All seizures of controlled substances, instruments, or paraphernalia used for unlawfully using or administering a controlled substance which are in possession of any city, county, or state official as found property, or as the result of a case in which no trial was had or which has been disposed of by way of dismissal or otherwise than by way of conviction, shall be destroyed by order of the court, unless the court finds that the controlled substances, instruments, or paraphernalia were lawfully possessed by the defendant.

SEC. 6. Section 11474 is added to the Health and Safety Code, to read:

11474. A court order for the destruction of controlled substances, instruments, or paraphernalia pursuant to the provisions of Section 11473 or 11473.5 may be carried out by a police or sheriff's department or by the Department of Justice. The court order shall specify the agency responsible for the destruction. Controlled substances, instruments, or paraphernalia not in the possession of the designated agency at the time the order of the court is issued shall be delivered to the designated agency for destruction in compliance with the order.

SEC. 7. Section 11477 of the Health and Safety Code is amended to read:

11477. The failure, upon demand by a peace officer of the person in occupancy or in control of land or premises upon which the species of plants are growing or being stored, to produce an appropriate registration, or proof that he is the holder thereof, constitutes authority for the seizure and forfeiture of the plants.

SEC. 8. Section 11478 of the Health and Safety Code is amended to read:

11478. Marijuana may be provided by the Attorney General to the heads of research projects which have been registered by the Attorney General, and which have been approved by the research advisory panel pursuant to Section 11480.

The head of the approved research project shall personally receipt for such quantities of marijuana and shall make a record of their disposition. The receipt and record shall be retained by the Attorney General. The head of the approved research project shall also, at intervals and in the manner required by the research advisory panel, report the progress or conclusions of the research project.

SEC. 9. Section 11485 of the Health and Safety Code is repealed.

SEC. 10. Section 11486 of the Health and Safety Code is repealed.

## CHAPTER 1020

An act to amend Section 18331 of, and to add Section 18332 to, the Welfare and Institutions Code, relating to the Nutrition Reserve Fund, 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 18331 of the Welfare and Institutions Code is amended to read:

18331. There is hereby established a Nutrition Reserve Fund under the control of the Director of the Department of Aging. From the fund the director may allocate to any individual nutrition project for any fiscal year no more than three hundred thousand dollars (\$300,000) in order to maintain necessary services which lack sufficient federal funding.

A nutrition project shall not receive more than one appropriation from the Nutrition Reserve Fund during the duration of the contract period of the project.

Requests for allocations from the Nutrition Reserve Fund shall be reviewed by the applicable local area agency on aging. The local area agency on aging shall submit recommendations to the California Department of Aging. The director shall report each allocation from the fund to the Joint Legislative Budget Committee within 30 days and shall submit to that committee by March 1 of each year an annual report on the use of the fund.

**SEC. 2.** Section 18332 is added to the Welfare and Institutions Code, to read:

18332. (a) All allocations from the Nutrition Reserve Fund shall be approved by the Director of Finance prior to issuance.

(b) The funds shall be used to maintain existing nutrition services when it is determined that no federal funds are available for this purpose. To the extent funds are available in the initial appropriation under Chapter 1189 of the Statutes of 1979, Nutrition Reserve Fund moneys may be used for increased cost per meal resulting from inflation and increased number of participants in existing projects resulting from the fact that inflation is causing more seniors on fixed incomes to fall below the poverty level.

(c) When appropriated by the Legislature, the Nutrition Reserve Fund, not to exceed an aggregate total of one million dollars (\$1,000,000), may be used to extend or implement innovative nutrition demonstration projects.

(d) In addition, one million dollars (\$1,000,000) of the fund shall constitute a revolving loan account from which the Department of Aging may extend loans, without interest, not to exceed three hundred thousand dollars (\$300,000) per loan to be repaid from

yearend balances in any senior nutrition project.

(e) In order to qualify for funds from the Nutrition Reserve Fund a nutrition project shall be required to seek from the community in which it is located, a matching grant in the amount equal to 5 percent of the requested allocation. The matching grant may be in the form of in-kind services, unless such services are presently being used as the basis for a matching grant for the project. In addition, if all other alternatives are exhausted to meet the 5-percent federal matching requirement required in PL 95-478, the Department of Aging may allocate funds from the Nutrition Reserve Fund as are necessary to meet this 5-percent match requirement. These funds may be used to maintain existing services, one-time major expenditures or to expand services to fulfill unmet needs. Thirty days prior to allocating funds from the Nutrition Reserve Fund for the purpose of meeting the 5-percent federal matching requirement, the Department of Aging shall advise the Assembly Committee on Aging, the Joint Legislative Budget Committee, and the fiscal committees in both houses of its plan for such allocations.

(f) When a nutrition project receives an allocation of funds from the Nutrition Reserve Fund due to the presence of fiscal difficulties, the Department of Aging shall, in conjunction with the applicable local area agency on aging and the nutrition project receiving such funds, take immediate action to determine the reason for the project's fiscal difficulties. The department shall submit to the Legislature and the Department of Finance a report by December 31 of each year concerning the findings and recommendations of the department regarding such nutrition projects receiving Nutrition Reserve Funds.

SEC. 3. (a) Money in the Nutrition Reserve Fund is appropriated to the Department of Aging without regard to fiscal year for purposes of this act, except that this act shall not be deemed to appropriate funds for use pursuant to subdivision (c) of Section 18332 of the Welfare and Institutions Code.

(b) The sum of fifty-five thousand dollars (\$55,000) is appropriated from the Nutrition Reserve Fund to establish a congregate meal setting in a for profit HUD sponsored senior housing project.

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## CHAPTER 1021

An act to amend Section 27707 of the Government Code, and to amend Section 987 of the Penal Code, relating to appointed counsel.

[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 27707 of the Government Code is amended to read:

**27707.** The court in which the proceeding is pending may make the final determination in each case as to whether a defendant or person described in Section 27706 is financially able to employ counsel and qualifies for the services of the public defender. The public defender shall, however, render legal services as provided in subdivisions (a), (b) and (c) of Section 27706 for any person the public defender determines is not financially able to employ counsel until such time as a contrary determination is made by the court. If a contrary determination is made, the public defender thereafter may not render services for such person except in a proceeding to review the determination of that issue or in an unrelated proceeding. In order to assist the court or public defender in making the determination, the court or the public defender may require a defendant or person requesting services of the public defender to file a financial statement under penalty of perjury. The financial statement shall be confidential and privileged and shall not be admissible as evidence in any criminal proceeding except the prosecution of an alleged offense of perjury based upon false material contained in the financial statement. The financial statement shall be made available to the prosecution only for purposes of investigation of an alleged offense of perjury based upon false material contained in the financial statement at the conclusion of the proceedings for which such financial statement was required to be submitted. The financial statement shall not be confidential and privileged in a proceeding under Section 987.8 of the Penal Code.

**SEC. 2.** Section 987 of the Penal Code is amended to read:

**987.** (a) In a noncapital case, if the defendant appears for arraignment without counsel, he shall be informed by the court that it is his right to have counsel before being arraigned, and shall be asked if he desires the assistance of counsel. If he desires and is unable to employ counsel the court shall assign counsel to defend him.

(b) In a capital case, if the defendant appears for arraignment without counsel, the court shall inform him that he must be represented by counsel at all stages of the preliminary and trial proceedings and that such representation will be at his expense if he is able to employ counsel or at public expense if he is unable to employ counsel, inquire of him whether he is able to employ counsel and, if so, whether he desires to employ counsel of his choice or to have counsel assigned to him, and allow him a reasonable time to send for his chosen or assigned counsel. If the defendant is unable to employ counsel, the court shall assign counsel to defend him. If the defendant is able to employ counsel and either refuses to employ counsel or appears without counsel after having had a reasonable time to employ counsel, the court shall assign counsel to him.

(c) In order to assist the court in determining whether a

defendant is able to employ counsel in any case, the court may require a defendant to file a financial statement under penalty of perjury. The financial statement shall be confidential and privileged and shall not be admissible in evidence in any criminal proceeding except the prosecution of an alleged offense of perjury based upon false material contained in the financial statement. The financial statement shall be made available to the prosecution only for purposes of investigation of an alleged offense of perjury based upon false material contained in the financial statement at the conclusion of the proceedings for which such financial statement was required to be submitted. The financial statement shall not be confidential and privileged in a proceeding under Section 987.8.

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## CHAPTER 1022

An act to amend Sections 9009, 9012, and 9051 of, to amend and renumber Sections 9022, 9023, 9027, 9028, 9028.5, 9030, and 9038 of, and to repeal Sections 9020, 9021, 9025, 9026, 9026.5, 9035, 9036, 9037, 9039, 9044, and 9045 of, the Business and Professions Code, and to amend Section 44266 of the Education Code, relating to social workers.

[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 9009 of the Business and Professions Code is amended to read:

9009. The board shall keep an accurate record of all of its proceedings and a register of all applicants for licenses and of all individuals to whom a license as a licensed clinical social worker is issued.

SEC. 2. Section 9012 of the Business and Professions Code is amended to read:

9012. The board may make such rules and regulations as may be necessary for the enforcement of this chapter and may by rule and regulation prescribe the qualifications for licensure.

SEC. 3. Section 9020 of the Business and Professions Code is repealed.

SEC. 4. Section 9021 of the Business and Professions Code is repealed.

SEC. 5. Section 9022 of the Business and Professions Code is amended and renumbered to read:

9020. Every applicant for a license under this chapter shall file an application with the board accompanied by the application fee prescribed by this chapter.

The application shall contain information showing that the

applicant has all the qualifications required by the board for admission to the examination.

SEC. 6. Section 9023 of the Business and Professions Code is amended and renumbered to read:

9021. Only individuals who have the qualifications prescribed by the board under this chapter are eligible to take the examination.

Every applicant who is issued a clinical social worker license shall be examined by the board.

SEC. 7. Section 9025 of the Business and Professions Code is repealed.

SEC. 8. Section 9026 of the Business and Professions Code is repealed.

SEC. 9. Section 9026.5 of the Business and Professions Code is repealed.

SEC. 10. Section 9027 of the Business and Professions Code is amended and renumbered to read:

9022. The action of the board upon the acceptance and rejection of applicants and the grading of examinations is final and not subject to review.

Every applicant whose application for a license has been rejected or who has failed to pass the examination may apply to the board for a reconsideration of its action at a public hearing. The application for reconsideration shall be filed with the board within 30 days after notice of the rejection or failure was received and only one application for reconsideration may be filed upon any one application for a certificate or upon any one application for an examination.

SEC. 11. Section 9028 of the Business and Professions Code is amended and renumbered to read:

9023. The board may suspend or revoke the license of any licensee if:

(a) He is convicted of an offense substantially related to the qualifications, functions or duties of a social worker.

(b) He uses intoxicating liquor or narcotic or hypnotic drugs to such an extent that in his activities as a social worker he is likely to endanger the health, welfare, or safety of the public.

(c) He is declared insane or incompetent.

(d) He advocates the overthrow of the government by force and violence or other unlawful means.

(e) He has committed a dishonest or fraudulent act as a social worker resulting in substantial injury to another.

SEC. 12. Section 9028.5 of the Business and Professions Code is amended and renumbered to read:

9024. The proceedings for the suspension or revocation of licenses under this chapter shall be conducted in accordance with the provisions of 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.

SEC. 13. Section 9030 of the Business and Professions Code is

amended and renumbered to read:

9025. No blind person shall be denied admission to any school of social work, training, or admission to any examination, or denied a license as a licensed clinical social worker, on the ground that he is blind.

SEC. 14. Section 9035 of the Business and Professions Code is repealed.

SEC. 15. Section 9036 of the Business and Professions Code is repealed.

SEC. 16. Section 9037 of the Business and Professions Code is repealed.

SEC. 17. Section 9038 of the Business and Professions Code is amended and renumbered to read:

9035. Except as provided in Section 17846, all sums in the Behavioral Science Examiners Fund are appropriated to the board, to be expended by it for the purposes of the programs under its jurisdiction.

SEC. 18. Section 9039 of the Business and Professions Code is repealed.

SEC. 19. Section 9044 of the Business and Professions Code is repealed.

SEC. 20. Section 9045 of the Business and Professions Code is repealed.

SEC. 21. Section 9051 of the Business and Professions Code is amended to read:

9051. The board may suspend or revoke the license of any person who is guilty on the grounds set forth in Section 9023. The proceedings for the suspension or revocation of licenses under this article 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 board shall have all the powers granted therein.

SEC. 22. Section 44266 of the Education Code is amended to read:

44266. The minimum requirements for the services credential with a specialization in pupil personnel services are either both (a) and (b), or (c) and (d):

(a) A baccalaureate degree or higher degree, except in professional education, from an approved institution; a fifth year of study to be completed within five years of the first employment of the certified employee; and such specialized and professional preparation as the commission may require, including completion of a commission-approved program of supervised field experience which includes direct classroom contact, jointly sponsored by a school district and a college or university.

(b) Passage of an examination selected and interpreted by the commission, or its approved waiver, as set forth in Sections 44287 and 44317.

(c) Possession of a valid license, certificate, or registration, appropriate to the service to be rendered issued by the California

agency authorized by law to license, certificate, or register persons to practice that service in California, or in the case of a social worker, except a licensed clinical social worker, possession of a master's degree earned through a regionally accredited institution upon graduation from a graduate social work program accredited by the National Council on Social Work Education.

(d) One year's experience in a commission-approved program of supervised fieldwork. This requirement may be waived if the commission finds that previous fieldwork is of such a nature as to adequately prepare the applicant for service in the schools.

Preparation programs that result in concurrent issuance of a services credential with a specialization in pupil personnel services and a teaching credential may be approved by the commission.

The services credential with a specialization in pupil personnel services shall authorize the holder to perform, at all grade levels, the pupil personnel service approved by the commission as designated on the credential, which may include, but need not be limited to, counseling, psychological, child welfare and attendance services, and school social work.

SEC. 23. Sections 1 to 21, inclusive, of this act shall become operative on January 1, 1983.

SEC. 24. Section 22 of this act shall become operative on January 1, 1982.

SEC. 25. Nothing in this act shall be construed to prohibit a registered social worker holding a valid certificate of registration on December 31, 1982, from continuing to use the title "registered social worker" on and after January 1, 1983.

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## CHAPTER 1023

An act to amend Sections 12930, 12963, and 12965 of, and to add Sections 12963.1, 12963.2, 12963.3, 12963.4, 12963.5, and 12963.7 to, the Government Code, relating to fair employment practices.

[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 12930 of the Government Code is amended to read:

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) In connection with any matter under investigation or in question before the department pursuant to a complaint filed under Section 12960, 12961, or 12980:

(1) To issue subpoenas to require the attendance and testimony of witnesses and the production of books, records, documents, and physical materials.

(2) To administer oaths, examine witnesses under oath and take evidence, and take depositions and affidavits.

(3) To issue written interrogatories.

(4) To request the production for inspection and copying of books, records, documents, and physical materials.

(5) To petition the superior courts to compel the appearance and testimony of witnesses, the production of books, records, documents, and physical materials, and the answering of interrogatories.

(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.

SEC. 2. Section 12963 of the Government Code is amended to read:

12963. After the filing of any complaint alleging facts sufficient to constitute a violation of any of the provisions of this part, the department shall make prompt investigation in connection therewith.

SEC. 3. Section 12963.1 is added to the Government Code, to read:

12963.1. Upon the filing of a complaint under Section 12960, 12961, or 12980:

(a) The department may issue and serve upon an individual, corporation, partnership, association, public entity, or other organization subpoenas to require the attendance and testimony of witnesses by deposition or otherwise, and in connection therewith, to require the production of books, records, documents, and physical materials in the possession of, or under the control of, the individual or organization named on the subpoena.

(b) A subpoena shall be served by delivering a copy of the subpoena to the individual named on the subpoena or to any person who would be eligible to receive service of summons on behalf of the individual or organization named on the subpoena, as provided in Sections 416.10 through 416.90 of the Code of Civil Procedure. A subpoena issued to a person, employer, labor organization, employment agency, or public entity alleged to have committed an unlawful practice in a complaint filed under Section 12960 or 12961 may also be delivered to the agent or representative who has responded to the department concerning the complaint on behalf of such person, employer, labor organization, employment agency, or public entity. The copy of the subpoena may be delivered by personal service, by substituted service in accordance with Section 415.20 of the Code of Civil Procedure, or by certified mail. The affidavit of the individual serving the subpoena setting forth the manner of such service, along with the return post office receipt in the case of mail service, shall be sufficient proof of such service.

(c) A subpoena for appearance and production of books, records, documents, and physical materials shall identify with reasonable particularity the things that are to be produced. The subpoena need not be accompanied by an affidavit showing good cause or the materiality of the things sought to be produced.

(d) A subpoena for appearance and testimony at a deposition or other proceeding issued to a corporation, partnership, association, public entity, or other organization shall state with reasonable particularity the matters on which testimony is sought. The organization served with such a subpoena shall have the obligation of producing as a witness one or more officers, directors, managing agents, or other individuals to testify on its behalf as to the matters specified in the subpoena.

(e) Service of a subpoena shall be made so as to allow the recipient of the subpoena a reasonable time for compliance. No individual named on a subpoena shall be obliged to attend as a witness before the department at a place out of the county in which that person resides, unless the distance is less than 150 miles from the individual's place of residence or good cause appears why attendance of the witness at greater distance should be required. Each witness who has appeared pursuant to a subpoena shall, upon demand, be paid by the

department the same fees and mileage allowed by law to witnesses in civil cases.

SEC. 4. Section 12963.2 is added to the Government Code, to read:

12963.2. Upon the filing of a complaint under Section 12960, 12961, or 12980:

(a) The department may issue and serve written interrogatories on the same individuals and organizations and in the same manner as subpoenas may be issued and served under Section 12963.1. Any corporation, partnership, association, public entity, or other organization to which interrogatories are issued has the obligation of designating one or more officers, directors, managing agents, or other individuals to answer the interrogatories on the organization's behalf.

(b) Within 30 days after the service of the interrogatories, or such longer time as the department may permit, the recipient of the interrogatories shall serve on the department written answers either responding fully or stating any objection to each interrogatory separately. The answers shall be made under oath and shall be signed by each individual making them, and the answers shall identify which individual has responded to each interrogatory.

(c) When in order to answer an interrogatory it is necessary to make a compilation, abstract, audit, or summary of the business records of the recipient of the interrogatory and such a compilation, abstract, audit, or summary does not exist or is not in the possession or under the control of the recipient, it shall be a sufficient answer to the interrogatory to so state and to specify the records from which the answer may be derived or ascertained and to afford the department reasonable opportunity to inspect and copy or make compilations, abstracts, or summaries from such records.

SEC. 5. Section 12963.3 is added to the Government Code, to read:

12963.3. (a) Depositions taken by the department shall be noticed by issuance and service of a subpoena pursuant to Section 12963.1. In the course of the investigation of a complaint on an individual or organization not alleged in such complaint to have committed an unlawful practice, written notice of the deposition shall also be mailed by the department to each individual or organization named in the complaint.

(b) A deposition may be taken before any officer of the department who has been authorized by the director to administer oaths and take testimony, or before any other person before whom a deposition may be taken in a civil action pursuant to subdivision (a) of Section 2018 of the Code of Civil Procedure. The person before whom the deposition is to be taken shall put the witness on oath and shall personally, or by someone acting under the person's direction and in the person'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 shall be noted on the deposition by the person before whom the deposition is taken, and evidence objected to shall be taken subject to the objections.

SEC. 6. Section 12963.4 is added to the Government Code, to read:

12963.4. (a) The department may issue and serve requests for production for inspection and copying of books, records, documents, and physical materials in the possession or under the control of an individual or organization. A request for production may be issued and served on the same individuals and organizations and in the same manner as subpoenas may be issued and served under Section 12963.1.

(b) A request for production shall identify with reasonable particularity the things that are to be inspected and shall specify a reasonable time, place, and manner of making the inspection and performing the copying, and may prescribe such terms and conditions as are just.

(c) Within 15 days after service of a request for production or such longer time as the department may permit, the recipient of the request shall serve on the department a written response with respect to each item requested, either stating that inspection and copying will be permitted as requested or objecting to the request and stating the grounds of the objection. Unless a request for production is objected to, the recipient of the request shall thereafter permit the inspection and copying requested by the department.

SEC. 7. Section 12963.5 is added to the Government Code, to read:

12963.5. (a) The superior courts shall have jurisdiction to compel the attendance and testimony of witnesses, the production of books, records, documents, and physical materials, and the answering of interrogatories. If an individual or organization fails to comply with a subpoena, interrogatory, request for production, or examination under oath by refusing to respond fully or objecting thereto, or by obstructing any proceeding before the department, the department may file with a superior court a petition for an order compelling compliance, naming as respondent the individual or organization that has failed to comply. Such an action may be brought in any county in which the department's investigation or inquiry takes place, but if the respondent is not found within any such county, such an action may be brought in the county of the respondent's residence or principal office.

(b) The petition shall describe the inquiry or investigation before the department, the basis for its jurisdiction therein, and state facts showing that the subpoena, interrogatory, request for production, or examination under oath was issued or carried out in accordance with the requirements of this part, that the information sought was identified with sufficient particularity to permit response and is reasonably relevant to the inquiry or investigation before the department, and that the respondent has failed to comply. If the

petition sets forth good cause for relief, the court shall issue an order to show cause to the respondent; otherwise the court shall enter an order denying the petition. The order to show cause shall be served, along with the department's petition, on the respondent in the same manner as summons must be served in civil actions, and the order shall be returnable not less than 10 days from its issuance nor later than 45 days after the filing of the petition. The respondent shall have the right to serve and file a written answer or other response to the petition and order to show cause.

(c) Unless otherwise stipulated by the parties, the court shall no later than 30 days after the filing of the petition file its order granting or denying the petition. However, the court may on its own motion for good cause extend such time an additional 30 days. If the order grants the petition in whole or part, the order shall set forth the manner in which the respondent shall comply and the period of time following the effective date of the order within which such compliance is required. A copy of the order shall be served by mail by the clerk upon the parties. If the order grants the petition in whole or in part, the order shall not become effective until 10 days after it is served. If the order denies the petition, it shall become effective on the date it is served.

(d) 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 appropriate court of appeal a petition for a writ of mandamus to compel the superior court to set aside or otherwise modify its order. If or whenever such review is sought from an order granting discovery, the order of the trial court shall be stayed upon the filing of the petition for a 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. If or whenever such review is sought from a denial of discovery, the trial court's order shall not be stayed by the court of appeal except upon a clear showing of probable error.

(e) Within 15 days after the end of the compliance period specified in the final order of the superior court, after the exhaustion of any challenges to the order in higher courts, the department shall in writing certify to the court either that the order has been complied with or that the respondent has failed to comply. A copy of the certified statement shall be served on the respondent by personal delivery or certified mail. After receipt of a certified statement indicating the respondent's failure to comply with the order, the court may compel obedience to its order by contempt proceedings, and by making such additional orders as may be appropriate. Following such proceedings, the department shall, within 15 days after the respondent complies with the original order of the court, certify in writing to the court that such order has been complied with. A copy of the certified statement shall be served on the respondent by personal delivery or certified mail.

(f) The period of time within which the department is directed to file an accusation by Section 12965 shall be extended by the length of the period between the filing of a petition under this section and either (1) the final effective date, after the exhaustion of any challenges to the original order in higher courts, of an order of the superior court denying the petition, or (2) the filing by the department of a certified statement, pursuant to subdivision (e), indicating the respondent's compliance with the order of the superior court granting the petition in whole or in part, whichever occurs later.

SEC. 8. Section 12963.7 is added to the Government Code, to read:

12963.7. (a) 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.

(b) 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.

SEC. 9. Section 12965 of the Government Code is amended to read:

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.

For any complaint treated by the director as a group or class complaint for purposes of investigation, conciliation, and accusation pursuant to Section 12961, an accusation shall be issued, if at all, within two years after the filing of the complaint. For all other complaints, an accusation shall be issued, if at all, within one year after the filing of a complaint. If the director determines, pursuant to Section 12961, that a complaint investigated as a group or class complaint under Section 12961 is to be treated as a group or class complaint for purposes of conciliation and accusation as well, such determination shall be made and shall be communicated in writing within one year after the filing of the complaint to each person, employer, labor organization, employment agency, or public entity alleged in the complaint to have committed an unlawful practice.

(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 accomodation 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.

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## CHAPTER 1024

An act to amend Section 4054 of the Food and Agricultural Code, and to add Sections 14970.1 and 14970.2 to the Government Code, relating to fairs.

[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 4054 of the Food and Agricultural Code is amended to read:

**4054.** If the board of an association, by resolution adopted by vote of two-thirds of all its members, finds and determines that the public interest and necessity require the acquisition of any building or improvement which is situated on property that is owned by the association, in trust or otherwise, or of any outstanding rights to such property, with the approval of the department and the association, such building, improvement, or outstanding rights may be acquired by eminent domain pursuant to the Property Acquisition Law, Part

11 (commencing with Section 15850) of Division 3 of Title 2 of the Government Code.

The use by the association of its property shall be considered a more necessary public use than the use of the property by any grantee, lessee, or licensee for the purposes which are specified in Section 4051 of this chapter.

Notwithstanding any provision of Sections 14256 and 14792, or of Article 5 (commencing with Section 25450) of Chapter 5 of Division 2 of Title 3, of the Government Code, the board of an association, or governing board of a county fair, by resolution adopted by vote of two-thirds of all its members, may purchase materials and lease equipment for not in excess of twenty thousand dollars (\$20,000) when such purchase or lease is made in conjunction with donated labor construction improvements on the grounds of the association or the county fairgrounds, respectively.

SEC. 2. Section 14790.1 is added to the Government Code, to read:

14790.1. The Department of General Services shall annually prepare a purchasing delegation program for district agricultural associations to be administered by the Department of Food and Agriculture and the Department of General Services pursuant to the following criteria:

(a) Purchases shall not exceed five thousand dollars (\$5,000).

(b) The Department of General Services shall annually review purchases to be included in the program and the amount of delegation for each type of purchase.

(c) The Department of General Services shall annually review with the Department of Food and Agriculture the aggregate limit for the delegation program.

(d) The Department of General Services shall annually communicate with each fair eligible for the delegation program, information relating to the procedure to be followed for using the delegation, including but not limited to, the things included in the delegation program.

SEC. 3. Section 14790.2 is added to the Government Code, to read:

14790.2. (a) The Legislature finds and declares that fairs are a valuable community resource and recognizes that local businesses and local communities make valuable contributions to fairs that include direct and indirect support of fair programs. The Legislature further finds and declares that local businesses often provide opportunity purchases to local fairs that, for similar things available through the state purchasing program, may be purchased locally at a price equivalent to or less than that available through the state purchasing program.

(b) Notwithstanding any other provision of law to the contrary, the Department of General Services and the Department of Food and Agriculture shall develop criteria to be applied for opportunity purchases that are made by district agricultural associations.

As used in this section, opportunity purchases means purchases locally at a price equal to or less than the price available through the state purchasing program on or off state contract.

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## CHAPTER 1025

An act to amend Section 56.25 of the Civil Code, and to amend Sections 704.1, 1222, 1534, 1556, 1558.5, 1559, 1562, 1586, 2111, 2782, 3002, 3003, 3008, 3009, 3051, 3701, and 4701 of, to add Section 3015 to, and to repeal Sections 612, 613, 614, 704.2, 704.3, 704.4, and 2651 of, and to repeal Article 5 (commencing with Section 3125) of Chapter 5 of Part 2 of Division 1 of, the Unemployment Insurance Code, relating to employment.

[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 56.25 of the Civil Code is amended to read:  
56.25. The disclosure and use of the following shall not be subject to the provisions of this part:

(a) (Mental health and developmental disabilities) All information and records obtained in the course of providing services under Division 4 (commencing with Section 4001), 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) of the Welfare and Institutions Code.

(b) (Public Social Services) Information and records which are subject to Sections 10850, 14124.1, and 14124.2 of the Welfare and Institutions Code.

(c) (State health services, communicable diseases, developmental disabilities) Information and records maintained pursuant to Chapter 2 (commencing with Section 200) of Part 1 of Division 1 of, Division 4 (commencing with Section 3000) of the Health and Safety Code.

(d) (Licensing and Statistics) Information and records maintained pursuant to Division 2 (commencing with Section 1200) of, and Division 9 (commencing with Section 10000) of, the Health and Safety Code, Chapter 3 (commencing with Section 1200) of Division 2 of the Business and Professions Code, and Section 224s of the Civil Code.

(e) (Medical survey, worker's safety) Information and records acquired and maintained pursuant to Sections 1380 and 1382 of the Health and Safety Code and Division 5 (commencing with Section 6300) of the Labor Code.

(f) (Industrial Accidents) The use and disclosure of information

and records acquired and maintained pursuant to Division 1 (commencing with Section 50), Division 4 (commencing with Section 3201), Division 4.5 (commencing with Section 6100), and Division 4.7 (commencing with Section 6200) of the Labor Code.

(g) (Employment Development Department) Medical information and records obtained or maintained by the Employment Development Department in its administration of the Unemployment Insurance Code.

(h) Medical information and records disclosed to, and their use by, the Insurance Commissioner, the Division of Industrial Accidents, the Workers' Compensation Appeals Board, or the Department of Insurance.

(i) Nothing in this part shall apply to any governmental agency seeking or acquiring medical records as part of the investigation or prosecution of a violation of law. Nothing in this part shall apply to any transmittal of medical information from one governmental agency to another for the purpose of furthering an investigation or prosecution of a violation of law. In such circumstances, current law shall apply to the acquisition, use and disclosure of such medical information.

(j) Nothing in this part shall affect provisions of the Evidence Code governing laws on confidentiality.

(k) Nothing in this part shall preclude a county fiscal department or fiscal agency from seeking or acquiring a patient's medical information and records, when such information is relevant to medical services provided to the patient at a facility for which the county is fiscally responsible in whole or in part for the medical services provided pursuant to a contract with such facility. When so acquired such information may be used only for the following purposes: (1) auditing, (2) preparation for arbitration or litigation resulting from dispute relating to services provided to the patient, and (3) dispute resolution. No medical information so acquired shall be used or disclosed for any purpose not directly related to the above purposes.

SEC. 2. Section 612 of the Unemployment Insurance Code is repealed.

SEC. 3. Section 613 of the Unemployment Insurance Code is repealed.

SEC. 4. Section 614 of the Unemployment Insurance Code is repealed.

SEC. 5. Section 704.1 of the Unemployment Insurance Code is amended to read:

704.1. (a) Notwithstanding any other provision of this division, the director may terminate any elective coverage agreement under this article if he or she finds that any of the following conditions exist:

(1) The employing unit or self-employed individual has discontinued the regular trade, business, or occupation.

(2) The regular trade, business, or occupation of the employing unit or self-employed individual is seasonal in its operations.

This paragraph shall not apply to any public entity.

(3) The employing unit or self-employed individual has failed to make a return or to pay contributions within the time required by this division and there is an unpaid amount of contributions owing by the employing unit or self-employed individual.

(4) The employing unit or any officer or agent of or person having charge of the affairs of the employing unit, or the self-employed individual is convicted of any violation pursuant to Chapter 10 (commencing with Section 2101). For the purposes of this paragraph, a plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction irrespective of whether an order granting probation or other order is made suspending the imposition of the sentence or whether sentence is imposed but execution thereof is suspended.

(b) The director shall give to the employing unit, or to the self-employed individual, a written notice pursuant to Section 1206 of the director's termination of the elective coverage agreement under this section. The date of termination may be the end of the calendar quarter immediately preceding the existence of any condition specified in subdivision (a), or the end of any subsequent calendar quarter thereafter, as determined by the director. In no event shall the termination of any elective agreement pursuant to this section entitle the employing unit or self-employed individual to any refund of contributions.

Any termination of elective coverage shall not affect the liability of the employing unit or self-employed individual for any contributions due, owing, and unpaid to the department.

(c) The provisions of Sections 1222, 1223, and 1224 shall apply to matters arising under this section.

SEC. 6. Section 704.2 of the Unemployment Insurance Code is repealed.

SEC. 7. Section 704.3 of the Unemployment Insurance Code is repealed.

SEC. 8. Section 704.4 of the Unemployment Insurance Code is repealed.

SEC. 9. Section 1222 of the Unemployment Insurance Code is amended to read:

1222. Within 30 days of service of any notice of assessment or denial of claim for refund or credit under Sections 803, 821, 844, or 991, or of any notice under Sections 704.1, 1035, 1055, 1131, 1142, 1180, 1184, 1733, and 1735, any employing unit or other person given such notice, or any employing unit affected by a granting or denial of a transfer of reserve account, may file a petition for review or reassessment with a referee. The referee may for good cause grant an additional 30 days for the filing of a petition. If a petition for reassessment is not filed within the 30-day period, or within the additional period granted by the referee, an assessment is final at the expiration of the period. If a petition for review of a termination of elective coverage under Section 704.1 is not filed within the 30-day

period, or within the additional period granted by the referee, the termination is final at the expiration of the period. If the director fails to serve notice of his or her action within 60 days after a claim for refund or credit is filed, the person or employing unit may consider the claim denied and file a petition with a referee.

SEC. 10. Section 1534 of the Unemployment Insurance Code is amended to read:

1534. Refunds or judgments payable pursuant to this part, may be paid from the clearing account or from the benefit account with respect to any money erroneously deposited therein, upon warrants issued by the Controller under the direction of and in accordance with authorized regulations, except that money credited to this state's account pursuant to Section 903 of the Social Security Act, as amended, shall be used exclusively as provided in Section 1528.5. Refunds of interest, penalties, and fines and interest payable on refunds and judgments pursuant to this division may not be paid from the benefit account but may be paid from the clearing account to the extent that interest, penalties, and fines collected are currently on deposit in that account.

SEC. 11. Section 1556 of the Unemployment Insurance Code is amended to read:

1556. Except for money deposited pursuant to Section 1528.5, the Unemployment Administration Fund shall consist of all money appropriated by this state for the purpose of administering this part, money deposited for the purpose of expenditure pursuant to Section 1558.5, and all money received from the United States of America, or any agency thereof, including the Secretary of Labor, or from any other source for such purpose. Money requisitioned and deposited in this fund pursuant to Section 1528.5 shall remain part of the Unemployment Fund and shall be used only in accordance with the conditions specified in that section.

SEC. 12. Section 1558.5 of the Unemployment Insurance Code is amended to read:

1558.5. Money in the Unemployment Administration Fund may be expended for any cost of administration under this code, or for any expenditure by the department chargeable pursuant to state or federal law to another state or federal fund or appropriation or to a subvention, payment under a contract, or other source and expended for any purpose authorized by such state or federal law, in accordance with a plan or system of accrual cost accounting approved by the United States Department of Labor under which expenditures from the Unemployment Administration Fund are charged against advances from or subsequently reimbursed from another fund or funds or appropriation or a subvention or payment under a contract or other source to which the actual costs of such expenditures are chargeable. The director shall deposit in the Unemployment Administration Fund advances from another fund or funds or appropriation or subvention or contract payment or other source made in accordance with an approved plan or system under

this section.

SEC. 13. Section 1559 of the Unemployment Insurance Code is amended to read:

1559. All money in the Unemployment Administration Fund shall be deposited, administered, and disbursed in the same manner and under the same conditions and requirements as is provided by law for other special funds in the State Treasury, but the director may draw, without at the time furnishing vouchers and itemized statements, sums not to exceed in the aggregate an amount equal to 1 percent of the total disbursements made from the fund during the immediately preceding fiscal year to be used as a revolving fund where payment of compensation earned, traveling expense advances, payments under Sections 1786 and 1788, the fees, commissions and expenses authorized to be charged in connection with the levy of writs of attachment or execution under Article 7 (commencing with Section 26720) of Chapter 2 of Part 3 of Division 2 of Title 3 of the Government Code, or other cash payments are necessary. At the close of each fiscal year or at any other time, upon the demand of the Department of Finance, the money so drawn shall be accounted for and substantiated by vouchers and itemized statements submitted to and audited by the Controller.

SEC. 14. Section 1562 of the Unemployment Insurance Code is amended to read:

1562. This state recognizes its obligations to replace, and pledges the faith of this state that funds shall be provided in the future, and applied to the replacement of, any money received from the federal government under Title 3 of the Social Security Act, any unencumbered balances in the Unemployment Administration Fund and any money granted to this state pursuant to the provisions of the Wagner-Peyser Act, which the Secretary of Labor finds have, because of any action or contingency, been lost or expended for purposes other than, or in amounts in excess of, those found necessary by the Secretary of Labor for the proper administration of this part and Parts 3 (commencing with Section 3501) and 4 (commencing with Section 4001) of this division. Such money shall be replaced within a reasonable time by money appropriated by the Legislature from the general funds of this state to the Unemployment Administration Fund. The director shall report to the Director of Finance, in the same manner as is provided generally for the submission of financial requirements for the ensuing year, and the Governor shall include in his or her next budget report to the Legislature, the amount required for such replacement.

SEC. 15. Section 1586 of the Unemployment Insurance Code is amended to read:

1586. All amounts in the Contingent Fund are hereby continuously appropriated without regard to fiscal years for refund of amounts collected and erroneously deposited therein, for interest payable under this division on refunds and judgments and for the administration of the department.

SEC. 16. Section 2111 of the Unemployment Insurance Code is amended to read:

2111. Except as otherwise provided in Section 1094, and except with respect to information furnished by the department in connection with its participation as a party or as a lien claimant in a judicial or administrative proceeding, information obtained in the course of administration of this division is confidential and shall not be published or open to public inspection in any manner. Any officer or employee of the state (including its political subdivisions), or any former member, officer or employee or other individual, who in the course of his or her employment or duty has or had access to returns, reports, or documents maintained under this division, who violates this section is guilty of a misdemeanor.

SEC. 17. Section 2651 of the Unemployment Insurance Code is repealed.

SEC. 18. Section 2782 of the Unemployment Insurance Code is amended to read:

2782. (a) The provisions of Chapter 4 (commencing with Section 2901), Chapter 5 (commencing with Section 3001), and Chapter 6 (commencing with Section 3251) of Part 2 do not apply to this chapter.

(b) The provisions of Article 2 (commencing with Section 2652), Article 6 (commencing with Section 2765) and Article 7 (commencing with Section 2775) of Chapter 2 of Part 2 do not apply to this chapter.

(c) Sections 2609, 2610, 2611, 2625, 2712, and 2712.5 do not apply to this chapter.

SEC. 19. Section 3002 of the Unemployment Insurance Code is amended to read:

3002. The State Treasurer is the treasurer of the Disability Fund and shall have the custody of all money belonging to the Disability Fund and not otherwise held, deposited or invested under this part. The official bond of the State Treasurer shall cover the faithful performance of his or her duties as treasurer of the Disability Fund. The State Treasurer shall invest or otherwise deal with the Disability Fund under the supervision of the director. The State Treasurer may, pursuant to Section 16470 of the Government Code, file with the Pooled Money Investment Board a notice of election that investment of surplus money in the Disability Fund shall come under the provisions of the Surplus Money Investment Fund, and may revoke such election pursuant to Section 16470 of the Government Code. As of the effective date of any election with respect to the Disability Fund filed pursuant to Section 16470 of the Government Code, the State Treasurer shall transfer the surplus money in the Disability Fund to the Surplus Money Investment Fund, and may transfer all or any portion of the investments held by the Disability Fund at the date of such election, from the Disability Fund to the Surplus Money Investment Fund. As of the effective date of the revocation of any such election, the State Treasurer shall transfer from the Surplus

Money Investment Fund to the Disability Fund the surplus money and earnings attributable to the Disability Fund.

SEC. 20. Section 3003 of the Unemployment Insurance Code is amended to read:

3003. (a) Except as provided in subdivision (c), all surplus money in the Disability Fund may be invested solely in securities set forth in subdivision (b) of this section, and all interest or earnings therefrom shall be deposited in the Disability Fund.

(b) Eligible securities for the investment of surplus money shall be:

(1) Bonds or interest-bearing notes or obligations of the United States, or those for which the faith and credit of the United States are pledged for the payment of principal and interest.

(2) Bonds of this state, or those for which the faith and credit of this state are pledged for the payment of principal and interest.

(3) Bonds of any county, city, metropolitan water district, municipal utility district, or school district of this state.

(4) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act.

(5) Debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933.

(6) Bonds or debentures of the Federal Home Loan Bank Board established under the Federal Home Loan Bank Act.

(7) Bonds of any federal home loan bank established under the Federal Home Loan Bank Act.

(8) Stock, bonds, debentures and other obligations of the Federal National Mortgage Association established under the National Housing Act.

(9) Bonds, notes, and other obligations issued by the Tennessee Valley Authority under the Tennessee Valley Authority Act.

(c) This section shall not apply during the period of any election under Section 16470 of the Government Code for investment of surplus money in the Disability Fund under the provisions of the Surplus Money Investment Fund.

SEC. 21. Section 3008 of the Unemployment Insurance Code is amended to read:

3008. All money collected under Section 984 shall be deposited in the Disability Fund.

SEC. 22. Section 3009 of the Unemployment Insurance Code is amended to read:

3009. Refunds, credits, or judgments, and interest thereon, payable for contributions erroneously collected under Sections 984 and 985 may be paid from the Disability Fund on warrants issued by the Controller under the direction of the director.

SEC. 23. Section 3015 is added to the Unemployment Insurance Code, to read:

3015. The department shall have priority to occupy any space in the buildings and facilities financed by the Disability Fund, which comprise any space in the department's central office building and related parking facilities in Sacramento and the department's branch office in Los Angeles, at rental rates not exceeding the cost of providing maintenance and other services.

SEC. 24. Section 3051 of the Unemployment Insurance Code is amended to read:

3051. There is a Disability Administration Account within the Disability Fund. The director may, without at the time furnishing vouchers and itemized statements, withdraw from this account sums not to exceed in the aggregate an amount equal to three percent of the total disbursements made from the fund during the immediately preceding fiscal year to be used as a revolving fund where payment of compensation earned, traveling expense advances, or other cash payments are necessary. At the close of each fiscal year or at any other time, upon the demand of the Department of Finance, the money so drawn shall be accounted for and substantiated by vouchers and itemized statements submitted to and audited by the Controller.

SEC. 25. Article 5 (commencing with Section 3125) of Chapter 5 of Part 2 of Division 1 of the Unemployment Insurance Code is repealed.

SEC. 26. 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 such notice, submits to the department any facts within its possession disclosing whether the exhaustee left the most recent employment with such employer voluntarily and without good cause or was discharged from such 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, or whether the claimant left such employer's employ to accompany his or her spouse to or join her or him at a place from which it is impractical to commute to such employment, to which a transfer of the claimant by the employer is not available, and at which the spouse has secured employment, shall be entitled to a ruling as prescribed by this section. The period during which the employer may submit such facts may be extended by the director for good cause.

(b) The department shall consider such 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 related to a determination is reconsidered pursuant to subdivision (a) of Section 1332 may also be reconsidered by the department within the time provided for reconsideration of such determination.

(c) For purposes of this section only, if the claimant voluntarily leaves such employer's employ without notification to the employer of the reasons therefor, and if the employer submits all of the facts within its possession concerning such leaving within the applicable time period referred to in this section, such leaving shall be presumed to be without good cause.

(d) An individual whose employment is terminated under the compulsory retirement provisions of a collective-bargaining agreement to which the employer is a party shall not be deemed to have voluntarily left his or her employment without good cause.

(e) Rulings under this section shall have the effect prescribed by Section 1032.

SEC. 27. Section 4701 of the Unemployment Insurance Code is amended to read:

4701. (a) Any employer who is entitled under Section 4654 to notice of the filing of an application or additional claim and who, within 10 days after mailing of such notice, submits to the department any facts within its possession disclosing whether the individual left the most recent employment with such employer voluntarily and without good cause or was discharged from such 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, or whether the claimant left such employer's employ to accompany his or her spouse to or join her or him at a place from which it is impractical to commute to such employment, to which a transfer of the claimant by the employer is not available, and at which the spouse has secured employment, shall be entitled to a ruling as prescribed by this section. The period during which the employer may submit such facts may be extended by the director for good cause.

(b) The department shall consider such facts together with any information in its possession and promptly issue to the employer its ruling as to the cause of the termination of the individual'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 such determination.

(c) For purposes of this section only, if the claimant voluntarily leaves such employer's employ without notification to the employer of the reasons therefor, and if the employer submits all of the facts within its possession concerning such leaving within the applicable time period referred to in this section, such leaving shall be presumed to be without good cause.

(d) An individual whose employment is terminated under the compulsory retirement provisions of a collective-bargaining agreement to which the employer is a party shall not be deemed to have voluntarily left his or her employment without good cause.

(e) Rulings under this section shall have the effect prescribed by Section 1032.

SEC. 28. 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.

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## CHAPTER 1026

An act to amend Section 4832 of the Business and Professions Code, relating to animal health technicians.

[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 4832 of the Business and Professions Code is amended to read:

4832. (a) There is hereby created within the jurisdiction of the board, an Animal Health Technician Examining Committee, hereinafter referred to as the examining committee.

(b) The examining committee shall consist of eight members appointed by the Governor. The examining committee shall consist of three veterinarians licensed to practice veterinary medicine in the State of California, one of whom shall be involved in educating animal health technicians, three public members and two members who shall be registered as animal health technicians in the State of California, who shall serve at the pleasure of the Governor. Appointments may be made from lists, if any, submitted by appropriate professional associations and societies.

The Governor shall appoint the public members as provided at the 1976 portion of the 1975-76 session of the Legislature as a vacancy occurs in the office of the licensed veterinarian or a registered animal health technician.

(c) All members of the examining committee shall be citizens of the United States and residents of the State of California. All doctors of veterinary medicine who are appointed members of the examining committee, shall have been licensed to practice veterinary medicine, at least five years preceding their appointments.

(d) The members of the examining committee shall serve for a term of four years, except that the original examining committee appointments may be staggered to achieve rotational terms. No person may serve as a member of the committee for more than two consecutive terms.

(e) The first animal health technician appointed to the committee shall upon appointment become a registered animal health technician, provided such person meets the eligibility requirements to take the written and practical examination as established in Section 4841.5.

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## CHAPTER 1027

An act to add Article 5.5 (commencing with Section 5069) to Chapter 1 of Division 5 of the Public Resources Code, relating to real property.

[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. Article 5.5 (commencing with Section 5069) is added to Chapter 1 of Division 5 of the Public Resources Code, to read:

## Article 5.5. Agricultural Leasing

5069. The Legislature finds and declares that agricultural lands are necessary to the conservation of the state's economic resources and necessary to the maintenance of the economy of the state, and that the preservation of agricultural lands in productivity is necessary for the protection of the public interest.

5069.1. All real property acquired for a state park system unit by the department, which was or had been farmed or grazed, or otherwise used for agricultural purposes, within the 24 months immediately preceding acquisition, shall be made available for agricultural purposes by the Department of General Services, unless the Director of Parks and Recreation finds that use of the real property for agricultural purposes would be inconsistent with the ultimate use of the real property as a unit, or part of a unit, of the state park system.

5069.2. Following approval of the general plan for a state park system unit pursuant to Section 5002.2, all real property which has therein been designated for permanent agricultural use shall be made available for leasing by the Department of General Services for agricultural purposes. In addition, all real property which will not be improved pursuant to the general plan for at least three years from the date of approval of the general plan, and which was being leased for agricultural purposes immediately prior to approval of the general plan, shall continue to be available for leasing for agricultural purposes until the director finds such use would be incompatible with the general plan or until the commencement of such improvements thereon.

5069.3. (a) The rent for any real property leased for agricultural purposes shall be based upon the fair market value of the real property when used for agricultural purposes. All rents from real property which the Director of General Services has transferred to the Department of Parks and Recreation shall be deposited pursuant to Section 5010.

(b) A lease term may not exceed 10 years. Leases may be renewed for additional terms.

(c) Every lease entered into pursuant to this article shall require the lessee to pay such taxes on his interest in the real property as shall become due, owing, or unpaid on the interest created by the lease.

5069.4. For the purposes of this article, "agricultural purposes" means the growing and harvesting of plant or animal products in a manner not inconsistent with the long-term natural qualities and recreational potentials of the land. "Agricultural purposes" does not include any activity related to the harvesting and production of timber.

## CHAPTER 1028

An act to amend Section 320.5 of the Health and Safety Code, relating to health, 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 320.5 of the Health and Safety Code is amended to read:

320.5. A State Child Health Board is hereby established within the department which shall consist of 10 voting members.

The Governor shall appoint the following six members of the board: a county health officer selected from a list of three nominees submitted by the California Conference of Local Health Officers, one physician and surgeon, one dentist, one person representative of a child advocate organization, and two parents of children eligible for services pursuant to this article, who are not health care providers. The Chairman of the Senate Rules Committee shall appoint two members of the board: a pediatrician and a parent of an eligible child who is not a health care provider. The Speaker of the Assembly shall appoint two members of the board: a pediatrician and a nurse whose speciality is child health. The State Director of Health Services, the State Director of Social Services, and the Superintendent of Public Instruction, or their designees, shall serve as ex officio, nonvoting members of the board. Except for existing members of the board, all appointments shall be for three years.

The members of the board 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 article.

The board shall select its own chairman from among the 10 appointed members by majority vote of the members and shall establish technical advisory committees as it deems necessary and desirable. Physician members of the board shall constitute a technical advisory committee for purposes of review of standards and regulations promulgated pursuant to subdivisions (a), (b), and (c). The board may utilize available department staff and staff of all other public and private agencies which have an interest in child health services.

The board shall meet on call of the board chairman, at least once annually, or as often as necessary to fulfill its duties. All meetings and records of the board shall be open to the public.

The board shall have the following powers, duties, and responsibilities:

(a) Review of standards for health screening, evaluation, and diagnostic procedures for community child health and disability

prevention programs.

(b) Review of standards for directors of community child health and disability prevention programs.

(c) Review of standards for public and private health providers, facilities, and agencies which participate in community child health and disability prevention programs.

(d) Advising the director on the development of a five-year state plan for child health and disability prevention services.

(e) Periodic review of all child health and disability prevention services within California and conducting independent investigations and studies as necessary.

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:

To avoid noncompliance with new federal regulations which will require expertise on the board in the areas of dentistry and welfare, it is imperative that the board be expanded to include a dentist and a representative of the State Department of Social Services. It is, therefore, necessary that this act go into immediate effect.

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## CHAPTER 1029

An act to amend Section 87102 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 87102 of the Government Code is amended to read:

87102. The requirements of Section 87100 are in addition to the requirements of Articles 2 and 3 of this chapter and any Conflict of Interest Code adopted thereunder. However, the remedies provided in Chapters 3 (commencing with Section 83100) and 11 (commencing with Section 91000) shall not be applicable to elected state officers for violations or threatened violations of this article.

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 1030

An act to add Sections 360.5 and 363 to the Financial Code, relating to banks.

[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 360.5 is added to the Financial Code, to read:

360.5. Upon receiving a request for an application, the superintendent shall inform the prospective applicant in writing that the superintendent is available to confer with such prospective applicant in advance of the filing of an application for the purpose of discussing questions relating to such application. However, no application shall be decided in advance of filing.

SEC. 2. Section 363 is added to the Financial Code, to read:

363. At least 30 days before denying an application, the superintendent shall by mail or other method of service give written notice of the intended denial of an application and of the right of the applicant to meet with the superintendent regarding the reasons for such denial. The request for such meeting shall be in writing and delivered to the superintendent within 20 calendar days of the date of giving of the notice of intended denial. If a request is made for such meeting, the application may not be denied until after the meeting.

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 CHAPTER 1031

An act to amend Sections 1342, 1351, 1376, and 1384 of the Health and Safety Code, relating to health.

[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 1342 of the Health and Safety Code is amended to read:

1342. It is the intent and purpose of the Legislature to promote the delivery of health and medical care to the people of the State of California who enroll or subscribe for the services rendered by a health care service plan or specialized health care service plan by:

(a) Assuring the continued role of the professional as the determiner of the patient's health needs which fosters the traditional patient professional relationship of trust and confidence.

(b) Assuring that subscribers and enrollees are educated and

informed as to the benefits and services available so as to enable a rational consumer choice in the marketplace.

(c) Protecting the potential subscriber or enrollee from fraudulent solicitations, deceptive methods, misrepresentations, or practices which are inimical to the general purpose of enabling a rational choice for the consumer public.

(d) Helping to assure the best possible health care for the public at the lowest possible cost by transferring the financial risk of health care from the patient to the providers.

(e) Promoting effective representation of the interests of subscribers and enrollees.

(f) Assuring the financial stability thereof by means of proper regulatory procedures.

(g) Assuring that subscribers and enrollees receive available and accessible health and medical services rendered in a manner providing continuity of care.

SEC. 2. Section 1351 of the Health and Safety Code is amended to read:

1351. Each application for licensure as a health care service plan or specialized health care service plan under this chapter shall be verified by an authorized representative of the applicant, and shall be in a form prescribed by the department. Such application shall be accompanied by the fee prescribed by subdivision (a) of Section 1356 and shall set forth or be accompanied by each and all of the following:

(a) The basic organizational documents of the applicant; such as, the articles of incorporation, articles of association, partnership agreement, trust agreement, or other applicable documents and all amendments thereto.

(b) A copy of the bylaws, rules and regulations, or similar documents regulating the conduct of the internal affairs of the applicant.

(c) A list of the names, addresses, and official positions of the persons who are to be responsible for the conduct of the affairs of the applicant, which shall include among others, all members of the board of directors, board of trustees, executive committee, or other governing board or committee, the principal officers, each shareholder with over 5-percent interest in the case of a corporation, and all partners or members in the case of a partnership or association, and each person who has loaned funds to the applicant for the operation of its business.

(d) A copy of any contract made, or to be made, between the applicant and any provider of health care services, or persons listed in subdivision (c), or any other person or organization agreeing to perform an administrative function or service for the plan. The commissioner by rule may identify contracts excluded from this requirement and make provision for the submission of form contracts. The payment rendered or to be rendered to such provider of health care services shall be deemed confidential information that shall not be divulged by the commissioner, except that such payment

may be disclosed and become a public record in any legislative, administrative, or judicial proceeding or inquiry. The plan shall also submit the name and address of each physician employed by or contracting with the plan, together with his or her license number.

(e) A statement describing the plan, its method of providing for health care services and its physical facilities. If applicable, this statement shall include the health care delivery capabilities of the plan including the number of full-time and part-time primary physicians, the number of full-time and part-time specialties of all nonprimary physicians; the numbers and types of licensed or state-certified health care support staff, the number of hospital beds contracted for, and the arrangements and the methods by which health care services will be provided. For purposes of this subdivision, primary physicians include general and family practitioners, internists, pediatricians, obstetricians, and gynecologists.

(f) A copy of the forms of evidence of coverage and of the disclosure forms or material which are to be issued to subscribers or enrollees of the plan.

(g) A copy of the form of the individual contract which is to be issued to individual subscribers and the form of group contract which is to be issued to any employers, unions, trustees, or other organizations.

(h) Financial statements accompanied by a report, certificate, or opinion of an independent certified public accountant. However, financial statements from public entities or political subdivisions of the state need not include a report, certificate, or opinion by an independent certified public accountant if the financial statement complies with such requirements as may be established by regulation of the commissioner.

(i) A description of the proposed method of marketing the plan and a copy of any contract made with any person to solicit on behalf of the plan or a copy of the form of agreement used and a list of the contracting parties.

(j) A power of attorney duly executed by any applicant, not domiciled in this state, appointing the commissioner the true and lawful attorney in fact of such applicant in this state for the purposes of service of all lawful process in any legal action or proceeding against the plan on a cause of action arising in this state.

(k) A statement describing the service area or areas to be served, including the service location for each provider rendering professional services on behalf of the plan and the location of any other plan facilities where required by the commissioner.

(l) A description of enrollee-subscriber grievance procedures to be utilized as required by this chapter, and a copy of the form specified by subdivision (c) of Section 1368.

(m) A description of the procedures and programs for internal review of the quality of health care pursuant to the requirements set forth in this chapter.

(n) A description of the mechanism by which enrollees and subscribers will be afforded an opportunity to express their views on matters relating to the policy and operation of the plan.

(o) Evidence of adequate insurance coverage or self-insurance to respond to claims for damages arising out of the furnishing of health care services.

(p) Evidence of adequate insurance coverage or self-insurance to protect against losses of facilities where required by the commissioner.

(q) If required by the commissioner by rule pursuant to Section 1376, a fidelity bond or a surety bond in the amount prescribed.

(r) Evidence of adequate workmen's compensation insurance coverage to protect against claims arising out of work-related injuries that might be brought by the employees and staff of a plan against the plan.

(s) Such other information as the commissioner may reasonably require.

SEC. 3. Section 1376 of the Health and Safety Code is amended to read:

1376. (a) No plan shall conduct any activity regulated by this chapter in contravention of such rules and regulations as the commissioner may prescribe as necessary or appropriate in the public interest or for the protection of plans, subscribers, and enrollees to provide safeguards with respect to the financial responsibility of plans. Such rules and regulations may require a minimum capital or net worth, limitations on indebtedness, procedures for the handling of funds or assets, including segregation of funds, assets and net worth, the maintenance of appropriate insurance and a fidelity bond, and the maintenance of a surety bond in an amount not exceeding ten thousand dollars (\$10,000).

(b) The surety bond referred to in subdivision (a) shall be conditioned upon compliance by the licensee with the provisions of this chapter and the rules and regulations adopted pursuant to this chapter and orders issued under this chapter. Such bond, unless previously canceled, shall apply to the entire period that the license is in effect. Every surety bond shall provide that no suit may be maintained to enforce any liability thereon unless brought within two years after the 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 the bond upon 30 days' written notice to the licensee and to the commissioner; except that such cancellation shall not affect any liability incurred or accrued prior to the effective date of such cancellation.

(c) Any appropriate deposits of cash or securities shall be accepted in lieu of the surety bond required pursuant to subdivision (a).

(d) For purposes of computing any minimum capital

requirement which may be prescribed by the rules and regulations of the commissioner under subdivision (a), any operating cost assistance or direct loan made to a plan by the United States Department of Health, Education and Welfare pursuant to Public Law 93-222, as amended, may be treated as a subordinated loan, notwithstanding any express terms thereof to the contrary.

(e) Each solicitor and solicitor firm shall handle funds received for the account of plans, subscribers, or groups in accordance with such rules as the commissioner may adopt pursuant to this subdivision.

(f) The commissioner may, by regulation, designate requirements of this section or regulations adopted pursuant to this section, from which public entities and political subdivisions of the state shall be exempt.

**SEC. 4.** Section 1384 of the Health and Safety Code is amended to read:

1384. (a) Within 90 days after receipt of a request from the commissioner, a plan or other person subject to this chapter shall submit to the commissioner an audit report containing audited financial statements covering the 12-calendar months next preceding the month of receipt of the request, or such other period as the commissioner may require.

(b) A plan whose license has been surrendered or revoked shall submit to the commissioner on or before 105 days after the effective date of such surrender or revocation, a closing audit report containing audited financial statements as of such effective date for the 12 months ending with such effective date, or for such other period as the commissioner may specify. Such report shall include other relevant information as specified by rule of the commissioner.

(c) Each plan shall submit financial statements prepared as of the close of its fiscal year within 120 days after the close of such fiscal year. The financial statements referred to in this subdivision and in subdivisions (a) and (b) of this section shall be accompanied by a report, certificate, or opinion of an independent certified public accountant or independent public accountant. The audits shall be conducted in accordance with generally accepted auditing standards and the rules and regulations of the commissioner. However, financial statements from public entities or political subdivisions of the state need not include a report, certificate, or opinion by an independent certified public accountant or an independent public accountant, and the audit shall be conducted in accordance with governmental auditing standards.

(d) A plan, solicitor, or solicitor firm shall make such special reports to the commissioner as the commissioner may from time to time require.

(e) For good cause and upon written request, the commissioner may extend the time for compliance with subdivisions (a), (b), and (h) of this section.

(f) A plan, solicitor, or solicitor firm shall, when requested by the commissioner, for good cause, submit its unaudited financial

statement, prepared in accordance with generally accepted accounting principles and consisting of at least a balance sheet and statement of income as of the date and for the period specified by the commissioner. The commissioner may require the submission of such reports on a monthly or other periodic basis.

(g) If the report, certificate, or opinion of the independent accountant referred to in subdivision (c) is in any way qualified, the commissioner may require the plan to take such action as the commissioner deems appropriate to permit an independent accountant to remove such qualification from the report, certificate, or opinion.

(h) The commissioner may reject any financial statement, report, certificate, or opinion filed pursuant to this section by notifying the plan, solicitor, or solicitor firm required to make such filing of its rejection and the cause thereof. Within 30 days after the receipt of such notice, such person shall correct such deficiency, and the failure so to do shall be deemed a violation of this chapter. The commissioner shall retain a copy of all filings so rejected.

(i) The commissioner may make rules and regulations specifying the form and content of the reports and financial statements referred to in this section, and may require that such reports and financial statements be verified by the plan or other person subject to this chapter in such manner as the commissioner may prescribe.

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## CHAPTER 1032

An act to add Section 23025 to the Government Code, relating to emergency services, 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 23025 is added to the Government Code, to read:

23025. A county, whether general law or chartered, which provides any emergency services, shall provide deaf teletype equipment at a central location within the county to relay requests for such emergency services.

SEC. 2. The sum of twenty-one thousand dollars (\$21,000) is hereby appropriated from the General Fund to the Controller for allocation and disbursement to local agencies and school districts pursuant to Section 2231 of the Revenue and Taxation Code to reimburse them for costs mandated by the state and incurred by them pursuant to this act.

## CHAPTER 1033

An act to repeal and add Chapter 8 (commencing with Section 24000) to Division 11 of the Food and Agricultural Code, relating to horses, 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.** Chapter 8 (commencing with Section 24000) of Division 11 of the Food and Agricultural Code is repealed.

**SEC. 2.** Chapter 8 (commencing with Section 24000) is added to Division 11 of the Food and Agricultural Code, to read:

**CHAPTER 8. DRUGGING OF HORSES**

**24000.** The Legislature finds and declares that the public has a valuable interest in public horse shows, horse competitions, and horse sales.

**24001.** For the purposes of this chapter:

(a) "Licensed veterinarian" means any person licensed as a veterinarian by the State of California.

(b) "Prohibited substance" is any stimulant, depressant, tranquilizer, or local anesthetic which could affect the performance or disposition of a horse, or any drug regardless of how harmless or innocuous it might otherwise be which could interfere with the detection of any such prohibited drug. It also includes any metabolite or derivative of any such substance.

(c) "Stimulant or depressant" means any medication which stimulates or depresses the circulatory, respiratory, or central or peripheral nervous system.

(d) "Trainer" means any person who has the responsibility for the care, training, custody, or performance of a horse, including, but not limited to, any person who signs any entry blank of any public horse show, horse competition, or horse sale, whether such person is an owner, rider, agent, coach, adult, or minor.

**24002.** (a) Except as otherwise provided in subdivision (b), the director has jurisdiction of all public horse shows, horse competitions, and horse sales under this chapter and shall administer and enforce the provisions of this chapter.

(b) No provision of this chapter shall apply to any individual horse show, horse competition, or horse sale which is certified by the director. The director shall, after consultation with an advisory committee established pursuant to Section 24013 and after holding a public hearing, certify any horse show, horse competition, or horse sale, if he determines all of the following are satisfied:

(1) The sponsoring organization or association requests the director for certification in writing.

(2) The drug usage at the event shall be subject to the supervision of a qualified licensed veterinarian.

(3) Adequate security and identification of test samples shall be maintained, and analysis of specimens shall be done by a laboratory which is approved by the director.

(4) Actions to be taken and the penalties imposed for violating the rules or regulations of the organization or association as to drug usage shall be as severe or more severe as those imposed by this chapter for any similar violation.

(5) An effective enforcement procedure shall be followed to control drug usage at the event.

The certification shall be effective and operate on a one-time basis as to any individual horse show, competition, or sale. The director shall withdraw the certification for any such horse show, competition, or sale, if the director finds that the drug prevention program of the organization or association which requested certification is not satisfactorily accomplishing the intent and objectives of this chapter.

24003. Except as otherwise prohibited by law, the full use of modern therapeutic measures for the improvement and protection of the health of the horses, is permitted unless the drug given also may stimulate or depress the circulatory, respiratory, or central or peripheral nervous systems or act as a tranquilizer.

24004. No horse shall be shown in any class at a public horse show, horse competition, or horse sale if it has been administered in any manner any prohibited substance in violation of this chapter.

24005. The trainer or owner, or both the trainer and owner, in the absence of substantial evidence to the contrary, is responsible for a horse's condition and is charged with knowledge of all of the provisions contained in this chapter and the rules and regulations adopted pursuant thereto. If any trainer is prevented from performing his duties, including responsibility for the condition of any horse in his care, by illness or other cause, or is absent from any public horse show, horse competition, or horse sale where a horse under his care is entered and stabled, he shall immediately notify the horse show secretary, horse competition secretary, or manager of the horse sale and at the same time a substitute shall be appointed by the trainer and such a substitute shall place his name on the entry blank at that time. Such substitute shall have the same responsibilities as the substituted trainer would have had for the condition of any horse in his care.

24006. Any trainer or owner, or both the trainer and owner, or person who administers, attempts to administer, instructs, aids, conspires with another to administer, or employs anyone who administers or attempts to administer a prohibited substance to a horse which might affect the performance or disposition of such horse at a horse show or competition or horse sale covered by this

chapter, without complying with Section 24011, shall be subject to the penalties provided for in this chapter which is applicable to the trainer.

24007. (a) In addition to any other penalty or fine prescribed by law, a trainer or owner, or both the trainer and owner, of a horse found to have received a prohibited substance in violation of this chapter shall be subject to a civil penalty of not less than one hundred dollars (\$100) nor more than ten thousand dollars (\$10,000) for each such violation, to be recovered by the director in any court of competent jurisdiction.

(b) In addition to the penalty specified in subdivision (a) or any other penalty or fine prescribed by law, the director may suspend any such trainer or owner, or both the trainer and owner, from all competitions at any public horse show or competition for a period of not less than 90 days nor more than one year for each such violation. It shall be unlawful for any person suspended from competition by the director to compete in any public horse show or competition during the period of suspension.

(c) The owner or owners of a horse found to have received a prohibited substance in violation of this chapter shall forfeit all prize money or sweepstakes and any trophies, ribbons, and points won at any public horse show or horse competition by such horse and the same shall be redistributed by the horse show or horse competition in accordance with its rules or bylaws. The owner shall pay a fee of fifty dollars (\$50) to such a public horse show or horse competition. The horse may be suspended for any period of time specified by the director, or returned to the seller if the violation occurs at a horse sale.

24008. The horses at public horse shows, horse competitions or horse sales are subject to examination under the direction of a licensed veterinarian of the department or agent thereof. The appointed licensed veterinarian, with the approval of the director, may appoint technicians and agents to perform certain duties under this chapter that are not prohibited by other provisions of law. The examination may include physical, saliva, urine, blood tests, or any other tests or procedure in the discretion of the licensed veterinarian necessary to effectuate the purposes of this chapter. Such veterinarian may examine any or all horses in a class or all classes in a public horse show or horse competition or any horse entered in any class or competition or sale whether in competition or not, if on the show or sale grounds or any horse withdrawn by any person or trainer within 24 hours prior to a class for which it has been entered as well as any horse sale.

The director may, by regulation, provide that a person at a horse sale or the management of such sale may, after depositing with the department a prescribed fee as determined by the director, which will cover testing costs, request the department to test any horse entered in the sale. Such test shall be conducted by a licensed veterinarian under the supervision of the department.

24009. Whether a horse is in competition or not, refusal to submit a horse in a public horse show, horse competition, or horse sale for examination or to cooperate with the licensed veterinarian or his technicians and agents shall constitute a violation of, and subject the responsible person to, penalties under this chapter.

24010. If the chemical analysis of blood, urine, saliva, or other samples taken from a horse indicate the presence of a prohibited substance or any metabolite or derivative thereof, it shall be prima facie evidence that the prohibited substance has been administered to such horse. A hearing shall be held when a positive report is received from a chemist identifying a prohibited substance or any metabolite or derivative thereof, unless requirements of Section 24011 have been met. The trainer or owner, or both the trainer and owner, responsible for the condition of such horse shall not be subject to the penalty prescribed under this chapter nor suspended, nor any horse be barred from competition until after the conclusion of such hearing and a written ruling thereon has been made by the director.

24011. A horse exhibited at a public horse show or horse competition or at a horse sale that receives any medication which contains a prohibited substance shall not be eligible for competition or sale, unless the following requirements have been met and the facts requested are submitted to the director in writing:

(a) Medication shall be therapeutic and necessary for treatment of an illness or injury.

(b) The horse shall be withdrawn from competition or from the sale for a period of not less than 24 hours after the medication is administered.

(c) The medication shall be administered by a licensed veterinarian, if available, and in his absence only by the trainer.

(d) Medication shall be identified as to the amount, strength, and mode of administration.

(e) The statement shall include the date and time of administration of the medication.

(f) The horse shall be identified by its name, age, sex, color, and entry number.

(g) The statement shall contain diagnosis and reason for administering the medication.

(h) The statement shall be signed by the person administering the medication.

(i) The statement shall be filed with the steward of the public horse show or horse competition or general manager of the horse sale within one hour after administration or one hour after the steward or manager of the horse sale returns to duty, if administration is at a time other than during show or sale hours.

(j) The statement shall be signed by the steward or horse sale manager and time of receipt recorded on the statement by the steward or horse sale manager.

If the chemical analysis of the sample taken from a horse so treated indicates the presence of a prohibited substance and all the

requirements of this section have been fully complied with, the information contained in such medication report and any other relevant evidence shall be considered at any hearing provided under this chapter in determining whether any provision of this chapter has been violated.

24012. To provide funds for enforcement of the provisions of this chapter, the management of a public horse show, horse competition, or horse sale, shall charge and collect a fee of not less than fifty cents (\$.50) nor more than three dollars (\$3) for each horse entered or exhibited in such public horse show, horse competition, or horse sale, as determined by the director to be necessary to carry out the provisions of this chapter. Such money shall be forwarded to the department and be deposited in the Department of Agriculture Fund. All funds received by the department from exhibitor fees shall be used exclusively to carry out the intent and purpose of this chapter, including, but not limited to, pharmacological studies, drug testing, and drug research, inspection for drugs, prosecution of alleged offenders, administrative costs, attorneys and expert witness fees, and any other costs necessary to carry out the provisions of this chapter.

24013. The director shall adopt such reasonable rules and regulations as are necessary to carry out the provisions of this chapter. In making and adopting such regulations, the director shall first consult with an advisory committee which the director shall appoint to serve without compensation. Such committee shall meet at least twice a year and shall elect a chairman at its first meeting after appointment. Members of the committee and their alternates may include, but not be limited to, representation from the California State Horsemen's Association, the Equestrian Trails, Inc., the California Professional Horsemen's Association, the Pacific Coast Hunter, Jumper, and Stock Horse Association, the Northern California Professional Horsemen's Association, the Los Angeles County Horse Show Exhibitors Association, the California Dressage Society, the Pacific Coast Quarter Horse Association, the Central California Quarter Horse Association, the Division of Fairs and Expositions, the North American Trail Ride Conference, the American Horse Exhibitors Against Drugging, the American Horse Shows Association, the University of California School of Veterinary Medicine, the Appaloosa Horse Territory 2, the International Arabian Club, the Pinto Association of America, and such other organizations as the director shall from time to time deem appropriate. In addition, the director may appoint one public member on the committee.

Upon the director's request, the committee shall submit to the director the names of three or more natural persons, each of whom shall be a citizen and resident of this state for appointment by the director as a public member and an alternate of the committee. The director may appoint one of the nominees as the public member on the committee. If all nominees are unsatisfactory to the director, the

committee shall continue to submit lists of nominees until the director has made a selection. Any vacancy in the office of the public member of the committee shall be filled by appointment by the director from the nominee or nominees similarly qualified submitted by the committee. The public member of the committee shall represent the interests of the general public in all matters coming before the committee and shall have the same voting and other rights and immunities as other members of the committee.

24014. It is hereby declared, as a matter of legislative determination, that persons appointed to the advisory committee pursuant to Section 24013 are intended to represent and further the interest of a particular industry concerned, and that such representation and furtherance is intended to serve the public interest. Accordingly, the Legislature finds that, with respect to persons who are appointed to such committee, the particular industry concerned is tantamount to, and constitutes, the public generally within the meaning of Section 87103 of the Government Code.

24015. Each public horse show, horse competition, or horse sale shall be registered with the department, as prescribed by the director by regulation.

24016. No provision contained in this chapter shall in any way affect existing statutes governing horseracing or affect horse sales or horse auction sales when such sales are solely for the sale of racehorses or breeding stock that is used in the production of racehorses and when such sales are held or conducted on the premises of any racing association under the jurisdiction of, and with the authorization and approval of, the California Horse Racing Board.

“Racehorse” as used in this section means each live horse, including a stallion, mare, gelding, ridgeling, colt, or filly, that is eligible to participate in a horseracing contest in California wherein parimutuel racing is permitted under rules and regulations prescribed by the California Horse Racing Board. The exemption provided in this section shall not apply with respect to racehorses participating in a competition, show, or sale covered by this chapter.

24017. This chapter shall not apply to any horse one year of age or less entered in any public horse sale, if public notice of the administering of any drug or medication has been given as prescribed by the director.

24018. The director may accept on behalf of the state, donations of money from any person, association, or agency interested in the control of drugging of horses. Any fines, penalties, fees, or donations collected by the director under this chapter shall be deposited in the Department of Agriculture Fund. Such moneys shall be used by the department to carry out the provisions of this chapter.

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. 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 be applicable during the current horse shows, competitions, and sales season, it is necessary that the provisions of this act become effective immediately.

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## CHAPTER 1034

An act to add Sections 67137, 67137.5, 67138, 67139, 67139.5 and 67147.5 to the Education Code, relating to student records.

[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 67137 is added to the Education Code, to read:

67137. Upon exhaustion of all administrative remedies provided by the college or university, an individual may bring a civil action against a college or university for an injunction whenever such college or university takes any action which conflicts with any rule or regulation adopted by the governing board of the college or university pursuant to the Family Educational Rights and Privacy Act (P.L. 93-380) or this chapter.

SEC. 2. Section 67137.5 is added to the Education Code, to read:

67137.5. In any suit brought under Section 67137, the court may enjoin the college or university from withholding student records and order the production to the complainant of any college or university records improperly withheld from the complainant. In such a suit the court shall determine the matter de novo, and may examine the contents of any college or university records in camera to determine whether the records or any portion thereof may be withheld as being confidential information or unrelated to the complainant, or both, and the burden is on the college or university to sustain its action.

SEC. 3. Section 67138 is added to the Education Code, to read:

67138. Upon exhaustion of all administrative remedies provided by the college or university and by the United States Department of Education, an individual may bring a civil action against a college or

university for damages whenever such college or university takes any action which conflicts with any rule or regulation adopted by their governing boards pursuant to the Family Educational Rights and Privacy Act (P.L. 93-380) or this chapter.

SEC. 4. Section 67139 is added to the Education Code, to read: 67139. In any action brought under this chapter, the court may do the following:

(a) Award reasonable attorney's fees and costs reasonably incurred to the complainant if the complainant prevails, if a permanent injunction is granted and if damages are not awarded. Such fees and costs may also be awarded if damages are awarded and the court determines that the action taken pursuant to the Family Educational Rights and Privacy Act (P.L. 93-380) or this chapter was the result of arbitrary or capricious conduct on the part of the college or university or by an employee of a college or university in his or her official capacity.

(b) Award reasonable attorney's fees reasonably incurred to the college or university if the college or university or the college or university employee acting in his or her official capacity prevails and the court determines that the complainant's action was not brought with reasonable cause.

The provisions of this section shall be applied ancillary to any action brought under this chapter and shall not be construed to create a new cause of action.

SEC. 5. Section 67139.5 is added to the Education Code, to read: 67139.5. Any person, other than an employee of the state or of a local government agency acting solely in his or her official capacity, who intentionally discloses confidential information from a student record without the written consent of the student which he or she knows or should reasonably know may not be disclosed without such consent, shall be subject to a civil action, for invasion of privacy, by the individual to whom the information pertains.

In any successful action brought under this section, the complainant, in addition to any special or general damages awarded, shall be awarded exemplary damages as well as attorney's fees and costs reasonably incurred in the suit.

The right, remedy, and cause of action set forth in this section shall be nonexclusive and is in addition to all other rights, remedies, and causes of action for invasion of privacy, inherent in Section 1, Article I of the California Constitution.

SEC. 6. Section 67147.5 is added to the Education Code, to read: 67147.5. This chapter shall not be construed to limit the privacy rights which any other provision of law affords to students or parents of students.

Nothing in Section 67137 or 67138 shall be construed to authorize any civil action by reason of any injury sustained as the result of any practice covered by this chapter prior to the effective date of this section.

## CHAPTER 1035

An act to amend Sections 53115.1 and 53115.2 of the Government Code and to amend Sections 41030, 41031, 41032, and 41141 of, and to repeal Section 41033 of, the Revenue and Taxation 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 53115.1 of the Government Code is amended to read:

53115.1. The Advisory Committee on the State Emergency Telephone Number is hereby created and established in the Department of General Services. The Communications Division shall provide staff services to the advisory committee.

It is the intention of the Legislature that the advisory committee will assist the Department of General Services in resolving conflicts between state and local government and the communications industry relating to implementation of the emergency telephone number system when requested by the Communications Division or any local public agency.

The advisory committee will be formed on or before January 1, 1977, and shall terminate on January 1, 1985. A majority vote of the membership of the advisory committee shall be required for approval of plans referred to the committee. The committee shall elect a chairman and meet at the call of the chairman, or within 30 days of the request of any local public agency. The committee shall consist of nine members and shall be appointed in the following manner:

(a) Two of the members shall be selected from the largest service suppliers of intrastate communications services in the state to represent all service suppliers, to be appointed by the Director of General Services, and shall be nonvoting members.

(b) Four of the members shall be selected from local agencies to be appointed by the Director of General Services. Urban and rural local agencies shall be represented. At least one of these members shall represent fire chiefs or police chiefs, in alternating years. Each of these four members must be from different counties.

(c) One member shall represent the Department of Finance, selected by the Director of Finance.

(d) Two of the members shall be representatives of the Legislature. One shall be designated by the Speaker of the Assembly and one shall be designated by the Senate Rules Committee.

The members of the advisory committee shall receive no compensation for their services, but shall be reimbursed for any actual and necessary expenses incurred in connection with the

performance of their duties. Members shall serve one-year terms subject to reappointment. If a member misses two successive meetings without approval by the chairman, then in that event that member's position shall be considered vacant. Prior to the next meeting a new member to fill the vacancy shall be appointed.

SEC. 2. Section 53115.2 of the Government Code is amended to read:

53115.2. The advisory committee shall have the following duties:

(a) The committee shall evaluate requests from local agencies for state assistance for incremental costs and recommend to the Chief of the Communications Division of the Department of General Services when appropriation for reimbursement to a local agency for such incremental costs should be made. The committee shall only review final plans which have been referred for consideration for incremental funding by the Communications Division at the request of a local agency. The committee shall make a recommendation to the Communications Division regarding state appropriations for payment or reimbursement for incremental costs.

(b) The committee shall, upon request of a local public agency, conduct a hearing on any conflict between a local public agency and the Communications Division regarding a final plan which has not been approved by the Communications Division pursuant to Section 53115. The committee shall meet within 30 days following such request, and shall make a recommendation to resolve the conflict to the Communications Division within 90 days following the initial hearing by the committee pursuant to such request.

(c) The committee may also act in a general advisory capacity to the Communications Division relative to the implementation of any "911" system.

SEC. 3. Section 41030 of the Revenue and Taxation Code is amended to read:

41030. The Department of General Services shall determine annually, on or before September 1, a surcharge rate that it estimates will produce sufficient revenue to fund the current fiscal year's 911 costs. The surcharge rate shall be determined by dividing the costs (including incremental costs) the Department of General Services estimates for the current fiscal year of 911 plans approved pursuant to Section 53115 of the Government Code, less the available balance in the State Emergency Telephone Number Account in the General Fund, by its estimate of the charges for intrastate telephone communications services to which the surcharge will apply for the period of November 1 of the current calendar year to October 31 of the next succeeding calendar year, but in no event shall such surcharge rate in any year be greater than three-quarters of 1 percent nor less than one-half of 1 percent.

SEC. 4. Section 41031 of the Revenue and Taxation Code is amended to read:

41031. The Department of General Services shall make its determination of such surcharge rate each year no later than

September 1 and shall notify the board of the new rate, which shall be fixed by the board to be effective with respect to charges made for intrastate telephone communication services on or after November 1 of each year.

SEC. 5. Section 41032 of the Revenue and Taxation Code is amended to read:

41032. Immediately upon notification by the Department of General Services and fixing the surcharge rate, the board shall each year no later than September 15 publish in its minutes the new rate, and it shall notify by mail every service supplier registered with it of the new rate.

SEC. 6. Section 41033 of the Revenue and Taxation Code is repealed.

SEC. 7. Section 41141 of the Revenue and Taxation Code is amended to read:

41141. Claims for reimbursement shall be submitted by local agencies to the Communications Division in the Department of General Services, which shall determine payment eligibility and shall reduce the claim for charges which exceed the approved incremental costs, approved contract amounts, or the established tariff rates for such costs. No claim shall be paid until funds are appropriated by the Legislature.

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## CHAPTER 1036

An act to amend Section 2709 of the Penal Code, relating to correctional industries.

[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 2709 of the Penal Code is amended to read:

2709. All articles, materials, and supplies, produced or manufactured under the provisions of this chapter shall be solely and exclusively for public use and no article, material, or supplies, produced or manufactured under the provisions of this chapter shall ever be sold, supplied, furnished, exchanged, or given away, for any private use or profit whatever, except that products and byproducts of agricultural and animal husbandry enterprises, and automobiles and aircraft refurbished as byproducts of prison vocational training programs at Folsom State Prison and Deuel Vocational Institution, respectively, may be sold to private persons, at private sale, under rules prescribed by the Director of General Services.

## CHAPTER 1037

An act to add Part 20 (commencing with Section 32500) to the Education Code, relating to education.

[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. Part 20 (commencing with Section 32500) is added to the Education Code, to read:

PART 20. EDUCATION IN STATE PRISONS

32500. (a) In order to encourage greater involvement of educational institutions in planning and developing prison-based educational programs, the Director of Corrections, the Chancellor of the California State University and Colleges, the Chancellor of the California Community Colleges, and the Superintendent of Public Instruction, with the advice of the California Postsecondary Education Commission, shall enter into interagency agreements. Such agreements shall provide for, but not be limited to, all of the following:

(1) A determination of the roles of the Department of Corrections, the office of the Chancellor of the California State University and Colleges, the office of the Chancellor of the California Community Colleges, and the Department of Education, in developing policy for prison-based educational programs.

(2) Joint policy and program planning.

(b) The Director of Corrections, the Chancellor of the California State University and Colleges, the Chancellor of the California Community Colleges, and the Superintendent of Public Instruction shall appoint an advisory committee to do, but not be limited to doing, all of the following:

(1) Making recommendations on the use of instructional television in these programs.

(2) Reviewing and making recommendations relating to any proposed budgets for these programs.

(3) Reviewing and making recommendations relating to the implementation of the interagency agreement.

(c) Notwithstanding the other provisions of this section, the Director of Corrections shall administer all prison-based education programs.

## CHAPTER 1038

An act relating to correctional institutions, 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. The Legislature finds that (a) incarceration in a state correctional institution impedes the maintenance of family relationships of inmates; (b) the preservation of the family relationships of inmates of correctional institutions is in the public interest because stability will assist an ex-offender to effectively reintegrate into society; (c) activities designed to maintain family relationships have resulted in an increased number of visits to inmates; (d) maintaining the family relationships of inmates has an impact on reducing the rate of recidivism; and (e) allowing family contact is an effective method of treatment for inmates of correctional institutions.

SEC. 2. The Department of Corrections shall contract with private nonprofit agencies to provide personnel to correctional institutions who shall assist in the accomplishment of all of the following objectives:

(a) An increase in the direct communication between inmates and their families.

(b) An increase in the number of visits between inmates and their families.

(c) An increase in the number of contacts between institutional staff and the families of inmates.

(d) The location of relatives with whom an inmate has lost contact.

(e) The reduction of inmate anxiety regarding family problems.

SEC. 3. The personnel provided pursuant to Section 2 shall provide all of the following services, in addition to any other services that the department shall deem appropriate:

(a) Facilitation or provision of liaison services between inmates and their families, and provision of assistance to inmates in resolving family problems.

(b) Facilitation or provision of counseling, reentry, employment, or educational services for inmates.

(c) Facilitation or provision, in emergencies, of counseling, legal services, food, clothing, transportation, and lodging for the families of inmates.

(d) Provision of direct contact with inmates by project staff members who are physically present in correctional institutions.

SEC. 4. Commencing January 1, 1982, any private nonprofit agency which receives funds pursuant to this act shall submit an

annual report containing all of the following information to the Department of Corrections:

- (a) Information identifying the problems of each inmate served.
- (b) A description of the methods used to resolve the problems of each inmate served.
- (c) A demonstration of the impact of the methods used through indicators such as visits arranged, specific problems solved, relatives located, and communications established or reestablished between inmates and their families.

Commencing March 1, 1982, the department shall submit an annual report to the Legislature, which shall include an independent evaluation of the impact of the program.

SEC. 5. The Department of Corrections shall adopt reasonable regulations concerning the administration of the program established by this act.

SEC. 6. The Department of Corrections shall employ the following criteria in determining whether to award a contract or to grant funds pursuant to this act:

- (a) The type, number, and quality of services proposed in comparison to program costs.
- (b) Experience in the provision of family liaison services in both correctional institutions and the community.
- (c) Capability of developing and maintaining a working relationship and cooperation with the department.
- (d) The needs expressed by inmates in correctional institutions.
- (e) Use of project volunteers to maximize the cost effectiveness of the program.

In this regard, each proposal by an agency submitted to the Department of Corrections shall assess the needs in correctional institutions for family liaison services and the particular basis for allocating project staff in the proposed manner.

SEC. 7. The sum of forty-five thousand dollars (\$45,000) is hereby appropriated from the General Fund to the Department of Corrections for the purposes of this act.

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## CHAPTER 1039

An act to add Part 6 (commencing with Section 22950) to Division 5 of Title 2 of the Government Code, relating to dental care plans, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 22, 1980 Filed with  
Secretary of State September 22, 1980 ]

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

SECTION 1. Part 6 (commencing with Section 22950) is added to Division 5 of Title 2 of the Government Code, to read:

**PART 6. STATE EMPLOYEE'S DENTAL CARE ACT**

22950. This part may be cited as the State Employees' Dental Care Act.

22951. It is the purpose of this part:

(a) To promote increased economy and efficiency in the state service;

(b) To enable the state to attract and retain qualified employees by providing dental care plans similar to those commonly provided in private industry;

(c) To recognize and protect the state's investment in each permanent employee by promoting and preserving good health among state employees.

22952. The State of California, through the Governor's office, and the Trustees of the California State University and Colleges and the Regents of the University of California, directly or through the Governor's office, may contract, upon negotiations with employee organizations, with carriers for dental care plans for employees and annuitants, provided the carriers have operated successfully in the area of dental care benefits for a reasonable period prior to contracting for such plans, or have a contract to provide benefit plans under Section 22790 of the Government Code, as amended by Chapter 403 of the Statutes of 1979.

No contract for any dental care plan may be entered into unless funds for a dental care plan contract are appropriated by the Legislature in a subsequently enacted statute.

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 dental care program to be implemented at the start of the 1980-81 fiscal year, it is necessary that this act take effect immediately.

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**CHAPTER 1040**

An act to amend Sections 2627.3 and 2629 of the Unemployment Insurance Code, relating to unemployment compensation, and making an appropriation therefor.

[Approved by Governor September 22, 1980. Filed with Secretary of State September 22, 1980 ]

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

SECTION 1. Section 2627.3 of the Unemployment Insurance Code is amended to read:

2627.3. If an individual is unemployed and disabled for more than 21 days during the disability benefit period, the waiting period required by subdivision (b) of Section 2627 shall be waived.

SEC. 2. Section 2629 of the Unemployment Insurance Code is amended to read:

2629. (a) Except as provided in this section, an individual is not eligible for disability benefits under this part for any day of unemployment and disability for which he has received, or is entitled to receive "other benefits" in the form of cash payments.

(b) "Other benefits" as used in this section means:

(1) Temporary disability indemnity under a workers' compensation law of this state or of any other state or of the federal government.

(2) Temporary disability benefits under any employer's liability law of this state or of any other state or of the federal government.

(c) If such "other benefits" are less than the amount an individual would otherwise receive as disability benefits under this part, he shall be entitled to receive, for such day, if otherwise eligible, disability benefits under this part reduced by the amount of such "other benefits."

SEC. 3. This act shall become operative with respect to periods of disability commencing on or after January 1, 1981. The provisions of law in effect prior to the amendment of provisions of the Unemployment Insurance Code made by this act shall continue to be applicable with respect to periods of disability commencing prior to January 1, 1981.

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## CHAPTER 1041

An act to amend Sections 4903 and 5406 of, to add Section 5406.5 to, and to add Chapter 11 (commencing with Section 4401) to Part 1 of Division 4 of, the Labor Code, relating to workers' compensation, and making an appropriation therefor.

[Approved by Governor September 22, 1980 Filed with  
Secretary of State September 22, 1980 ]

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

SECTION 1. Chapter 11 (commencing with Section 4401) is added to Part 1 of Division 4 of the Labor Code, to read:

## CHAPTER 11. ASBESTOS WORKERS' ACCOUNT

## Article 1. General Provisions

4401. It is the declared policy of the state that qualified injured workers with asbestosis which arises out of and occurs in the course of employment shall receive workers' compensation temporary disability and medical benefits promptly and not be subjected to delays of litigation to determine the responsible employer.

4402. (a) "Asbestosis" means any pathology, whether or not combined with preexisting pathology, which results in disability or need for medical treatment from inhalation of asbestos fibers.

(b) "Asbestos worker" means any person whose occupation subjected him or her to an exposure to asbestos fibers.

4403. The Asbestos Workers' Account is hereby created in the Uninsured Employers Fund in the State Treasury, and shall be administered by the Director of Industrial Relations. The money in the Asbestos Workers' Account is hereby continuously appropriated for the purposes of this chapter, and to pay the expenses of the director in administering these provisions.

4404. Insofar as not inconsistent with the provisions of this chapter, all of the provisions of this division shall pertain to asbestos workers and their dependents for purposes of furnishing worker's compensation temporary disability and medical benefits thereto.

4405. Where the conditions of compensation exist under this division the right to recover workers' compensation temporary disability and medical benefits pursuant to the provisions of this chapter is a temporary remedy for injury to an asbestos worker against the Asbestos Workers' Account, and such asbestos worker or his or her dependents shall make all reasonable effort to establish the identity of the employer responsible for securing the payment of compensation.

4406. (a) Payments as advances on workers' compensation temporary disability and medical benefits shall be furnished an asbestos worker for injury resulting in asbestosis, subject to the provisions of this division, if all of the following conditions occur:

(1) The asbestos worker demonstrates to the account that at the time of exposure, the asbestos worker was performing services and was acting within the scope of his or her duties in an occupation that subjected the asbestos worker to the exposure to asbestos.

(2) The asbestos worker demonstrates to the account that he or she is suffering from asbestosis.

(3) The asbestos worker demonstrates to the account that he or she developed asbestosis from the employment.

(4) The asbestos worker is entitled to compensation for asbestosis as otherwise provided for in this division.

(b) The findings of the account with regard to the conditions in subdivision (a) shall not be evidence in any other proceeding.

(c) The account shall require the asbestos worker to submit to an

independent medical examination.

## Article 2. Benefits

4407. When the account determines that the conditions in Section 4406 have occurred, payments as advances on workers' compensation temporary disability and medical benefits shall be provided in accordance with this chapter, notwithstanding the right of the asbestos worker to secure compensation as otherwise provided for in this division.

4408. Prior to seeking compensation benefits under this chapter, the asbestos worker shall first make claim on the employer or its workers' compensation insurance carrier for payment of compensation under this division. If the asbestos worker is unable to locate the responsible employer or insurance carrier, or if the employer or insurance carrier fails to pay or denies liability for the compensation required by this division to the person entitled thereto, within a period of 30 days after the assertion of such a claim, the asbestos worker may seek payment of workers' compensation temporary disability and medical benefits required by this division from the Asbestos Workers' Account.

4409. The Director of Industrial Relations, or his representative, shall assign investigative and claims adjustment services respecting matters concerning Asbestos Workers' Account cases. Such assignments may be made within the department, including the Division of Industrial Accidents, and excluding the State Compensation Insurance Fund.

4409.5. The administrative director shall appoint referees and support staff who shall give priority to the processing of the claims of asbestos workers.

4410. The administrative director shall appoint at least two information and assistance officers who shall give priority to assisting asbestos workers pursuant to the provisions of this chapter. The information and assistance officer shall assist to the fullest extent possible any asbestos worker seeking benefits under this chapter. In assisting the asbestos worker, the information and assistance officer shall conduct necessary investigation and procure those records, reports, and information which are necessary to the early identification of responsible employers and insurance carriers, and to facilitate in the expediting of payments of benefits that may be due under this division.

4411. (a) When a claim is made against the Asbestos Workers' Account, the account shall secure appropriate information, adjust the claim, and pay benefits provided by this chapter in accordance with the provisions of this division.

(b) The asbestos worker shall, prior to the first payment of benefits by the Asbestos Workers' Account, file an application before the Workers' Compensation Appeals Board to determine the responsible employer for payment of compensation under this

division.

(c) In every case before the Workers' Compensation Appeals Board in which a claim of injury from exposure to asbestos is alleged, the appeals board shall join the Asbestos Workers' Account as a party to the proceeding and serve the fund with copies of all decisions and orders, including findings and awards, and order approving compromise and release.

(d) Once a decision establishing the responsible employer or insurance carrier is agreed upon between the parties, or is issued by the Workers' Compensation Appeals Board, and becomes final, the Asbestos Workers' Account shall terminate payment of compensation benefits, notify all interested parties accordingly, and seek collection as provided for under this chapter. Responsibility for payment of all future compensation benefits shall be in accordance with such agreement, order, or decision.

(e) The account shall terminate the payment of benefits to any employee who fails to cooperate fully in determining the responsible employer or insurance carrier.

(f) The Asbestos Workers' Account may, at any time, commence or join in proceedings before the Workers' Compensation Appeals Board by filing an application on its own behalf. In any case in which the Asbestos Workers' Account has been joined as a party or has filed an application on its own behalf, the Asbestos Workers' Account shall have all of the rights and privileges of a party applicant.

### Article 3. Collections

4412. The Asbestos Workers' Account shall take all reasonable and appropriate action to insure that recovery is made by the account for all moneys paid as compensation benefits and as costs.

In the event that the responsible employer is uninsured, the account shall not be entitled to reimbursement from the Uninsured Employers Fund.

4413. No limitation of time provided by this division shall run against the Asbestos Workers' Account to initiate proceedings before the Workers' Compensation Appeals Board when the account has made any payment of moneys, incurred any costs for services, or encumbered any liability of the account.

4414. Immediately following the receipt of knowledge of initiation of proceedings before the Workers' Compensation Appeals Board, or any other jurisdiction providing benefits for the same injury, the Asbestos Workers' Account shall file a lien and may invoke such other remedies as are available to recover moneys expended for compensation benefits.

4415. In any hearing or proceeding, the Director of Industrial Relations may use attorneys from within the department, or the Attorney General, to represent the director and the state.

4416. Once an agreement as to the responsible employer is reached, or a decision is issued by the Workers' Compensation

Appeals Board and becomes final, the Asbestos Workers' Account shall notify the responsible employer or insurance carrier of the amount of payment necessary to satisfy the lien in full. Full payment of the lien shall be made by the responsible employer or insurance carrier within 30 days of the issue of such notification. The account may grant a reasonable extension of time for payment of the lien beyond 30 days. This payment shall be for all moneys expended for compensation benefits, and for all recoverable costs including the cost of independent medical examination and all costs reasonably incidental thereto, including, but not limited to, costs of transportation, hospitalization, consultative evaluation, X-rays, laboratory tests, and other diagnostic procedures. The payment shall bear interest, as provided in Section 5800, from the date of the agreement or decision through the date of payment.

The lien of the Asbestos Workers' Account shall be allowed as a first lien against compensation, and shall have priority over all other liens. The lien of the Asbestos Workers' Account may not be reduced by the Workers' Compensation Appeals Board or by the parties unless express written consent to the proposed reduction of the lien is given by the Asbestos Workers' Account and is filed in the record of proceedings before the Workers' Compensation Appeals Board.

4417. Nothing in this chapter shall be construed to preclude the filing by an asbestos worker of a claim or suit for damages or indemnity against any person other than his or her employer. The Asbestos Workers' Account shall be entitled to recover from, and shall have a first lien against, any amount which is recoverable by the injured employee pursuant to civil judgment or settlement in relation to a claim for damages or indemnity for the effect of exposure to asbestos, for all compensation benefits paid to the injured employee by the Asbestos Workers' Account which have not previously been recovered from the responsible employer or employers by the Asbestos Workers' Account. Recovery by the Asbestos Workers' Account pursuant to the provisions of this section shall not have the effect of extinguishing or diminishing the liability of the responsible employer or employers to the injured employee for compensation payable under the provisions of this division.

4418. The provisions of this chapter providing for the payment of workers' compensation temporary disability and medical benefits from the Asbestos Workers' Account shall be operative only until December 31, 1985, and as of such date all payments from the fund shall be terminated, unless a later enacted statute which is chaptered before December 31, 1985, deletes or extends such date. However, if no such statute is enacted prior to December 31, 1985, the authority of the Asbestos Workers' Account under this chapter to recover the benefits and costs paid to asbestos workers prior to such date shall continue until such benefits and costs have been recovered.

SEC. 2. Section 4903 of the Labor Code is amended to read:

4903. The appeals board may determine, and allow as liens against any sum to be paid as compensation, any amount determined

as hereinafter set forth in subdivisions (a) through (h) of this section. If more than one such lien be allowed, the appeals board may determine the priorities, if any, between the liens allowed. The liens which may be allowed hereunder are as follows:

(a) A reasonable attorney's fee for legal services pertaining to any claim for compensation either before the appeals board or before any of the appellate courts, and the reasonable disbursements in connection therewith.

(b) The reasonable expense incurred by or on behalf of the injured employee, as provided by Article 2 of Chapter 2 of Part 2 of this division.

(c) The reasonable value of the living expenses of an injured employee or of his or her dependents, subsequent to the injury.

(d) The reasonable burial expenses of the deceased employee, not to exceed the amount provided for by Section 4701.

(e) The reasonable living expenses of the spouse or minor children of the injured employee, or both, subsequent to the date of the injury, where such employee has deserted or is neglecting his or her family. Such expenses shall be allowed in such proportion as the appeals board deems proper, under application of the spouse or guardian of the minor children.

(f) The amount of unemployment compensation disability benefits which have been paid under or pursuant to the Unemployment Insurance Code in those cases where, pending a determination under Division 4 (commencing with Section 3200) of this code, there was uncertainty whether such benefits were payable under the Unemployment Insurance Code or payable hereunder; provided, however, that any lien under this subdivision shall be allowed and paid as provided in Section 4904.

(g) The amount of unemployment compensation benefits and extended duration benefits paid to the injured employee for the same day or days for which he or she receives, or is entitled to receive, temporary total disability indemnity payments under this division; provided, however, that any lien under this subdivision shall be allowed and paid as provided in Section 4904.

(h) The amount of compensation, including expenses of medical treatment, and recoverable costs which have been paid by the Asbestos Workers' Account pursuant to the provisions of Chapter 11 (commencing with Section 4401) of Part 1.

SEC. 3. Section 5406 of the Labor Code is amended to read:

5406. Except as provided in Section 5406.5, the period within which may be commenced proceedings for the collection of the benefits provided by Article 4 (commencing with Section 4700) of Chapter 2 of Part 2 is one year from:

(a) The date of death where death occurs within one year from date of injury; or

(b) The date of last furnishing of any benefits under Chapter 2 (commencing with Section 4550) of Part 2, where death occurs more than one year from the date of injury; or

(c) The date of death, where death occurs more than one year after the date of injury and compensation benefits have been furnished.

No such proceedings may be commenced more than one year after the date of death, nor more than 240 weeks from the date of injury.

SEC. 3.5. Section 5406 of the Labor Code is amended to read:

5406. Except as provided in Section 5406.5, the period within which may be commenced proceedings for the collection of the benefits provided by Article 4 (commencing with Section 4700) of Chapter 2 of Part 2 is one year from:

(a) The date of death where death occurs within one year from date of injury; or

(b) The date of last furnishing of any benefits under Chapter 2 (commencing with Section 4550) of Part 2, where death occurs more than one year from the date of injury; or

(c) The date of death, where death occurs more than one year after the date of injury and compensation benefits have been furnished; or

(d) The service of a notice of rejection of a claim, as provided in Section 5402.

No such proceedings may be commenced more than one year after the date of death, nor more than 240 weeks from the date of injury.

SEC. 4. Section 5406.5 is added to the Labor Code, to read:

5406.5. In the case of the death of an asbestos worker from asbestosis, the period within which may be commenced proceedings for the collection of the benefits provided by Article 4 (commencing with Section 4700) of Chapter 2 of Part 2 is one year from the date of death.

SEC. 5. It is the intent of the Legislature, if this bill and Senate Bill 375 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 5406 of the Labor Code, and this bill is chaptered after Senate Bill 375, that Section 5406 of the Labor Code, as amended by Section 33 of Senate Bill 375, be further amended on the effective date of this act in the form set forth in Section 3.5 of this act to incorporate the changes in Section 5406 proposed by this bill. Therefore, if this bill and Senate Bill 375 are both chaptered and become effective on or before January 1, 1981, and Senate Bill 375 is chaptered before this bill and amends Section 5406, Section 3.5 of this act shall become operative on the effective date of this act and Section 3 of this act shall not become operative.

SEC. 5.5. It is the intent of the Legislature that funding for administrative costs associated with implementation of this act shall come from redirection of the state funds appropriated for the base budget of the Department of Industrial Relations in the 1980-81 to 1984-85 fiscal years.

SEC. 6. 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. 7. The sum of two million six hundred twenty-five thousand dollars (\$2,625,000) is hereby appropriated from the contingency reserve for economic uncertainties in the General Fund to the Asbestos Workers' Account in the Uninsured Employers Fund for the purposes of this act.

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## CHAPTER 1042

An act to amend Sections 4453, 4453.1, 4460, and 4702 of the Labor Code, relating to workers' compensation.

[Approved by Governor September 22, 1980. Filed with  
Secretary of State September 22, 1980]

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

SECTION 1. Section 4453 of the Labor Code is amended to read:  
4453. Except as provided in Section 4453.1, in computing average annual earnings for the purposes of temporary disability indemnity and permanent total disability indemnity only, the average weekly earnings shall be taken at not less than seventy-three dollars and fifty cents (\$73.50) nor more than two hundred sixty-two dollars and fifty cents (\$262.50). In computing average annual earnings for purposes of permanent partial disability indemnity, except as provided in Section 4659, the average weekly earnings shall be taken at not less than forty-five dollars (\$45) nor more than one hundred five dollars (\$105). Between these limits the average weekly earnings, except as provided in Sections 4456 to 4459, shall be arrived at as follows:

(a) Where the employment is for 30 or more hours a week and for five or more working days a week, the average weekly earnings shall be 100 percent of the number of working days a week times the daily earnings at the time of the injury.

(b) Where the employee is working for two or more employers at or about the time of the injury, the average weekly earnings shall be taken as 100 percent of the aggregate of such earnings from all employments computed in terms of one week; but the earnings from employments other than the employment in which the injury occurred shall not be taken at a higher rate than the hourly rate paid at the time of the injury.

(c) If the earnings are at an irregular rate, such as piecework, or on a commission basis, or are specified to be by week, month or other period, then the average weekly earnings mentioned in subdivision (a) above shall be taken as 100 percent of the actual weekly earnings averaged for such period of time, not exceeding one year, as may conveniently be taken to determine an average weekly rate of pay.

(d) Where the employment is for less than 30 hours per week, or where for any reason the foregoing methods of arriving at the average weekly earnings cannot reasonably and fairly be applied, the average weekly earnings shall be taken at 100 percent of the sum which reasonably represents the average weekly earning capacity of the injured employee at the time of his injury, due consideration being given to his actual earnings from all sources and employments.

SEC. 2. Section 4453.1 of the Labor Code is amended to read:

4453.1. In computing average annual earnings for the purposes of temporary disability indemnity, the average weekly earnings for a claimant whose last employment was either (i) as an employee as defined in subdivision (d) of Section 3351, or (ii) as an employee engaged in vending, selling, offering for sale, or delivering directly to the public, any newspaper published at least weekly, shall be taken at not less than the lesser of fifty-two dollars and fifty cents (\$52.50), or 1.2 times the employee's actual weekly earnings from all employers, nor more than two hundred sixty-two dollars and fifty cents (\$262.50). Between these limits, the average weekly earnings, except as provided in Sections 4456 to 4459, shall be arrived at as provided in subdivisions (a) through (d), inclusive, of Section 4453.

SEC. 3. Section 4460 of the Labor Code is amended to read:

4460. For the purpose of computing the temporary disability indemnity or permanent total disability indemnity payable to any employee who sustains an original injury causing temporary disability or permanent total disability, the maximum average weekly earnings shall be taken at two hundred sixty-two dollars and fifty cents (\$262.50). For the purpose of computing the permanent partial disability indemnity payable to any employee who sustains an original injury causing permanent partial disability, the maximum average weekly earnings shall be taken at one hundred five dollars (\$105).

Every computation made pursuant to this section as last amended shall be made only with reference to temporary disability or such permanent disability resulting from an original injury sustained after the act last amending this section becomes effective; provided, however, that all rights presently existing under this section shall be continued in force.

SEC. 4. Section 4702 of the Labor Code is amended to read:

4702. Except as otherwise provided in this section and in Sections 4553, 4554, and 4557, the death benefit in cases of total dependency, when added to all accrued disability indemnity, shall be as follows:

(a) In the case of two or more total dependents and regardless of the number of partial dependents, seventy-five thousand dollars (\$75,000).

(b) In the case of one total dependent and one or more partial dependents, fifty thousand dollars (\$50,000), plus four times the amount annually devoted to the support of the partial dependents, but not more than seventy-five thousand dollars (\$75,000) in total.

(c) In the case of one total dependent and no partial dependents,

fifty thousand dollars (\$50,000).

(d) In the case of no total dependents and one or more partial dependents, four times the amount annually devoted to the support of the partial dependents, but not more than fifty thousand dollars (\$50,000) in total.

The death benefit in all cases shall be paid in installments in the same manner and amounts as temporary disability indemnity, payments to be made at least twice each calendar month, unless the appeals board otherwise orders.

Disability indemnity shall not be deducted from the death benefit and shall be paid in addition to the death benefit when the original injury resulting in death occurs after the effective date of the amendment to this section adopted at the 1949 Regular Session of the Legislature.

Every computation made pursuant to this section shall be made only with reference to death resulting from an original injury sustained after this section as amended in 1980 during the 1979-80 Regular Session of the Legislature becomes effective; provided, however, that all rights presently existing under this section shall be continued in force.

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## CHAPTER 1043

An act to amend Sections 19405, 19406, 19411, 19412, 19414.5, 19421, 19431, 19491.5, 19491.6, 19531, 19532, 19549, 19550, 19610, 19611, 19612, 19612.1, 19612.2, 19612.6, 19614, 19615, 19616, 19617, 19618, and 19641 of, to add Sections 19408.1, 19408.2, 19408.3, 19415.5, 19599, 19610.5, and 19617.5 to, and to repeal Section 19612.5 of, the Business and Professions Code, relating to horseracing.

[Approved by Governor September 24, 1980 Filed with  
Secretary of State September 25, 1980.]

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

**SECTION 1.** Section 19405 of the Business and Professions Code is amended to read:

19405. "Breakage" means the odd cents by which the amount payable on each dollar wagered exceeds a multiple of ten cents (\$.10).

**SEC. 2.** Section 19406 of the Business and Professions Code is amended to read:

19406. (a) "California-bred horse" is a foal dropped by a mare in California after being conceived in California and remaining in California until the foal is weaned.

(b) A "California-bred thoroughbred" is a horse dropped by a mare in California after being conceived in California, or any thoroughbred horse dropped by a mare in California if the mare

remains in California to be next bred to a thoroughbred stallion standing in California. If the mare cannot be bred for two successive breeding seasons but remains in California during that period, her foal shall be considered to be a California-bred thoroughbred.

SEC. 3. Section 19408.1 is added to the Business and Professions Code, to read:

19408.1. "Graded stake" means an international classification for major thoroughbred stakes races established in each country by its thoroughbred racing regulatory body.

SEC. 3.1. Section 19408.2 is added to the Business and Professions Code, to read:

19408.2. "Claiming race" means a race in which any horse entered therein may be claimed in conformity with the rules established by the board.

SEC. 3.2. Section 19408.3 is added to the Business and Professions Code, to read:

19408.3. "Stakes race" means a race for which owners of horses entered or engaged for the race contribute to a purse for which money or any other prize may be added, nominations to which close 72 hours or more before starting; or an invitational race or invitational handicap race for which owners do not contribute to the purse, but which is advertised in the regular stakes program.

SEC. 4. Section 19411 of the Business and Professions Code is amended to read:

19411. "Parimutuel wagering" is a form of wagering on the outcome of horseraces in which those who wager purchase tickets of various denominations on a horse or horses in one or more races. When the outcome of the race or races has been declared official, the association distributes the total wagers comprising each pool, less the amounts retained for license fees, purses, commissions, breakage, and breeder and stallion awards, to holders of winning tickets on the winning horse or horses.

SEC. 5. Section 19412 of the Business and Professions Code is amended to read:

19412. (a) "Conventional parimutuel pool" means the total wagers under the parimutuel system on any horse or horses in a particular race to win, place, or show

(b) "Exotic parimutuel pool" means the total wagers under the parimutuel system on the finishing position of two or more horses in a particular race, such as quinella or exacta wagers, or on horses to win two or more races, such as daily double wagers, pick six wagers, or on other wagers approved by the board.

SEC. 6. Section 19414.5 of the Business and Professions Code is amended to read:

19414.5. "Racing days" are days on which a licensed racing association is authorized by the board to conduct horseracing. "Racing weeks" are seven consecutive days during which a licensed racing association is authorized by the board to conduct horseracing for a minimum of five racing days. Fractional racing weeks may be

authorized by the board at the beginning and end of any horseracing meeting but shall not total more than one week, except that if a licensed racing association holds a split meeting, each part of the split meeting shall be deemed a horseracing meeting solely for the purposes of authorizing fractional racing weeks.

SEC. 7. Section 19415.5 is added to the Business and Professions Code, to read:

19415.5. "Split meeting" means a meeting having two periods of racing separated by at least 45 days, one period which is no more than 15 consecutive weeks in length and the other period which is no less than four consecutive weeks in length. The "short period" of a split meeting is the period of lesser duration.

SEC. 7.2. Section 19421 of the Business and Professions Code is amended to read:

19421. The board consists of seven members, appointed by the Governor.

Each member shall hold office for a term of four years, commencing at the expiration of the previous term.

The term of the members of the board in office on January 1, 1959, shall expire as follows: one member July 26, 1959, one member July 26, 1960, and one member July 26, 1961. The terms shall expire in the same relative order as to each member as the term for which he holds office on January 1, 1959.

The term of the members appointed pursuant to amendments made to this section during the 1977-1978 legislative session shall expire as follows: one on January 1, 1979 and one on January 1, 1982.

The term of the members appointed pursuant to amendments made to this section during the 1979-80 Regular Session of the Legislature shall expire as follows: one on January 1, 1982, and one on January 1, 1984.

Any vacancy shall be filled by the Governor for the unexpired term.

Each member shall be eligible for reappointment in the discretion of the Governor.

SEC. 7.4. Section 19431 of the Business and Professions Code is amended to read:

19431. The board shall establish and maintain a general office for the transaction of its business in Sacramento. The board may establish any branch office for the transaction of its business at a place to be determined by it, and may hold meetings at any other place within the state when the interests of the public may be better served.

A public record of every vote shall be maintained at the board's general office.

At least four members of the board shall concur in the taking of any official action or in the exercise of any of the board's duties, powers, or functions.

SEC. 8. Section 19491.5 of the Business and Professions Code is amended to read:

19491.5. Notwithstanding the provisions of subdivision (a) of Section 19491, an association, including the California Exposition and State Fair or a county or district agricultural association fair, which conducts, or whose predecessor association has conducted, a horseracing meeting during the preceding year at which the total amount handled in the parimutuel pools operated by the association, or by such predecessor association, is not more than two hundred fifty million dollars (\$250,000,000) shall be exempt from payment of that portion of the license fee provided in subdivision (a) of Section 19491 on the amount handled by it under one hundred twenty-five million dollars (\$125,000,000). All the money accruing pursuant to this section shall be distributed as purses. In addition, an association which conducts, or whose predecessor association has conducted, a horseracing meeting during the preceding year at which the total amount handled in the parimutuel pools operated by the association or predecessor association is more than two hundred fifty million dollars (\$250,000,000) shall be exempt from the payment of that portion of the license fee provided in subdivision (a) of Section 19491 on the amount handled in excess of twenty-four million dollars (\$24,000,000) but not in excess of fifty million dollars (\$50,000,000).

"Predecessor association," as used in this section, means a person who was previously licensed to conduct racing of the same kind and at the same racing facility as the presently existing association.

It is the intent of the Legislature that the amendment to this section at its 1970 Regular Session shall be deemed to be a clarification of the effect of this section, and that such amendment does not constitute a substantive change.

SEC. 9. Section 19491.6 of the Business and Professions Code is amended to read:

19491.6. Except as provided in subdivision (b) of Section 19612, the exempt amount retained by the association shall be regularly deposited in a separate account with a depository approved by the board. The funds deposited shall be distributed as purses.

SEC. 10. Section 19531 of the Business and Professions Code is amended to read:

19531. The board shall make such allocations of racing weeks, including such simultaneous racing between zones, as it deems appropriate. The maximum number of racing weeks which may be allocated for horseracing other than at the California Exposition and State Fair, or county or district agricultural association fairs, shall be as follows:

(a) For thoroughbred racing: 40 weeks per year in the northern zone; 42 weeks per year in the central zone; and seven weeks per year in the southern zone.

(b) For harness racing: 15 weeks per year in the northern zone; 15 weeks per year in the central zone; and 10 weeks per year in the southern zone.

(c) For quarter horse racing: 15 weeks per year in the northern zone; and 25 weeks per year in the southern zone.

(d) In its written application for a license, an applicant shall state the time of day (subject to Section 19571) during which it will conduct its racing meeting, and particularly the first race starting time for the various racing days. After receiving a license, a licensee shall not change such first race starting time without securing prior approval of the board.

(e) Notwithstanding this section or any provision to the contrary contained in this chapter, the board shall not allocate dates to an association in the central zone for the purpose of conducting racing during daytime hours if a thoroughbred racing association is conducting racing in the southern zone on the same date during daytime hours.

SEC. 11. Section 19532 of the Business and Professions Code is amended to read:

19532. (a) Any association licensed to conduct thoroughbred racing in the northern zone may receive no more than 16 weeks of such racing.

(b) Any association licensed to conduct thoroughbred racing in the central zone may receive no more than 17 weeks of such racing, except that any association conducting a split meeting may receive up to 20 weeks of such racing. No more than one such split meeting may be licensed in any one year.

(c) Any association licensed to conduct quarter horse racing in the southern zone may receive no more than 15 weeks of such racing.

(d) This section and Section 19531 shall not operate to deprive any association of any weeks of racing granted during 1980.

(e) This section and Section 19531 shall not operate to deprive the California State Fair and Exposition of any weeks of racing granted during the previous calendar year, and the board may continue to allocate such weeks of racing to the California Exposition and State Fair or any lessee thereof.

(f) Nothing in subdivision (e) shall be construed as a limitation on the board allocating racing weeks to any private racing association as a lessee of the California Exposition and State Fair racetrack facility pursuant to Sections 19531 and 19532.

(g) For the purpose of implementing this section and Section 19531, the board may allocate racing dates for 1981 in excess of the statutory maximums established in those sections.

SEC. 12. Section 19549 of the Business and Professions Code is amended to read:

19549. Except as provided in Section 19549.1, the maximum number of racing days which may be allocated to the California State Fair and Exposition or California State Exposition and Fair or a county or district agricultural association fair or citrus fair shall be 14 days per year. Such racing days shall be days on which general fair activities are conducted. However, any fair racing association which conducted racing in the central zone prior to January 1, 1970, shall be entitled to be allocated up to three weeks of racing.

SEC. 13. Section 19550 of the Business and Professions Code is

amended to read:

19550. The board shall require each licensed racing association which conducts 14 or less weeks of racing to designate three racing days, and each licensed racing association which conducts more than 14 weeks of racing to designate five racing days during any one meeting, to be conducted as charity days by such licensee for the purpose of distribution of the net proceeds therefrom as hereinafter defined to beneficiaries through the distributing agent, as provided herein.

For the purposes of this section, a split meeting shall be considered a single meeting and shall designate the appropriate number of charity days based on the total weeks of racing allocated for both periods of the meeting.

This section shall not apply to the California Exposition and State Fair or a county or district agricultural association fair.

SEC. 13.5. Section 19599 is added to the Business and Professions Code, to read:

19599. The board shall not approve any form of wagering on more than one race unless all such races are conducted on the same racing program.

SEC. 14. Section 19610 of the Business and Professions Code is amended to read:

19610. Every association which conducts a racing meeting shall deduct 15 percent of the total amount handled in conventional parimutuel pools and 16.75 percent of the total amount handled in exotic parimutuel pools. The amounts as deducted shall be distributed as prescribed in this chapter.

SEC. 15. Section 19610.5 is added to the Business and Professions Code, to read:

19610.5. In addition to the amounts required to be paid as license fees under any other provision of this chapter, every association, except an association conducting a racing meeting pursuant to Section 19612.6, shall pay 1 percent of its exotic parimutuel pools to the state as an additional license fee.

SEC. 16. Section 19611 of the Business and Professions Code is amended to read:

19611. (a) Every thoroughbred association conducting a meeting with a total parimutuel handle of two hundred fifty million dollars (\$250,000,000) or more shall pay a daily license fee equal to 5.7 percent of its daily conventional parimutuel handle and 6.45 percent of its daily exotic parimutuel handle.

(b) Every thoroughbred association conducting a meeting with a total parimutuel handle of less than two hundred fifty million dollars (\$250,000,000) shall pay a daily license fee at the following rates based upon its daily conventional and exotic parimutuel handle:

Daily Handle	License Fee Rate
\$2,000,000 or less .....	4.8 percent of handle
\$2,000,001 and more .....	\$96,000 plus 6 percent of the handle

in excess of \$2,000,001

In addition, every association subject to this subdivision shall pay an additional license fee at the rate of 0.75 percent of its daily exotic parimutuel handle. Except as provided in Section 19610.5, no such association shall pay a license fee in excess of 5.1 percent of the daily conventional parimutuel handle and 5.85 percent of the daily exotic parimutuel handle.

(c) Notwithstanding subdivision (a), every thoroughbred racing association which conducts a split meeting shall pay a daily license fee at the rates specified in subdivision (b) for the short period of its meeting.

(d) After distribution of the applicable license fees set forth in subdivision (a), (b), or (c), and the payments pursuant to Sections 19610.5, 19616 and 19617, all funds remaining from the deductions provided in Section 19610 shall be distributed 55 percent as commissions and 45 percent as purses.

SEC. 17. Section 19612 of the Business and Professions Code is amended to read:

19612. (a) Except as otherwise provided, every association which conducts a harness or quarter horse race meeting shall pay a daily license fee at the following rates based upon its daily conventional and exotic parimutuel handle:

Daily Handle	License Fee Rate
\$550,000 or less .....	2.5 percent of handle
\$550,001 to \$750,000 .....	\$13,750 plus 5.5 percent of the handle in excess of \$550,001
\$750,001 and more .....	\$24,750 plus 4.7 percent of the handle in excess of \$750,001

In addition, every association subject to this subdivision shall pay an additional license fee at the rate of 0.75 percent of its daily exotic parimutuel handle. Except as provided in Section 19610.5, no such association shall pay a license fee in excess of 3.8 percent of the daily conventional parimutuel handle and 4.55 percent of the daily exotic parimutuel handle.

(b) With respect to quarter horse meetings, all funds remaining from the deductions provided in Sections 19610, 19491, and 19491.5, after distribution of the applicable license fee, shall be distributed 55 percent as commissions and 45 percent as purses. With respect to harness meetings, the funds remaining from deductions provided in Section 19610, after distribution of the applicable license fee, shall be distributed 59.5 percent as commissions and 40.5 percent as purses.

(c) Every harness association which conducted its racing meeting in a single continuous period prior to January 1, 1979, and thereafter conducts a split racing meeting, shall pay a daily license fee based upon its daily conventional and exotic parimutuel handle in accordance with the following schedule:

Daily Handle	License Fee Rate
\$1,000,000 or less .....	1.5 percent of handle
\$1,000,001 and more .....	\$15,000 plus 10.7 percent of the handle in excess of \$1,000,001

In addition, every such association shall pay an additional license fee at the rate of 0.75 percent of its daily exotic parimutuel handle. Except as provided in Section 19610.5, no such association shall pay a license fee in excess of 3.04 percent of its daily conventional parimutuel handle and 3.79 percent of its daily exotic parimutuel handle.

(d) Any association qualified to operate its meetings pursuant to Section 19612.6 shall be entitled to continue to distribute license fees, commissions, and purses as provided by that section.

(e) Every quarter horse association which conducted its racing meeting in the northern zone prior to January 1, 1979, shall pay a daily license fee based upon its daily conventional and exotic parimutuel handle in accordance with the following schedule:

Daily Handle	License Fee Rate
\$550,000 or less .....	1.5 percent of handle
\$550,001 to \$750,000 .....	\$8,250 plus 2.75 percent of the handle in excess of \$550,001
\$750,001 and more .....	\$13,750 plus 4.7 percent of the handle in excess of \$750,001

In addition, every such association shall pay an additional license fee at the rate of 0.75 percent of its daily exotic parimutuel handle. Except as provided in Section 19610.5, no such association shall pay a license fee in excess of 3.8 percent of the daily conventional parimutuel handle and 4.55 percent of its daily exotic parimutuel handle.

(f) Every association which conducted a quarter horse racing meeting in the southern zone during the daytime prior to January 1, 1979, and thereafter conducts such a meeting at night, shall be entitled to the following license fee adjustment:

For each 1 percent that such association's average daily handle in the 1981 year, during the period from the commencement of such meeting to December 25, and for a like period of five meetings thereafter, falls below its 1980 average daily handle during the same period, the amount of the applicable license fee as set forth in subdivision (a) shall be reduced by 2 percent.

(g) Notwithstanding subdivision (b), for every association which conducts a quarter horse meeting in the northern zone pursuant to subdivision (e), the amount remaining after deduction of the state license fee shall be distributed between commissions and purses as agreed to by the association conducting the meeting and the organization representing the horsemen participating at the meeting.

SEC. 18. Section 19612.1 of the Business and Professions Code is amended to read:

19612.1. (a) In addition to the amounts otherwise deducted pursuant to this chapter, every association with an average daily handle of more than six hundred fifty thousand dollars (\$650,000), which conducts a harness, quarter, or Appaloosa horse meeting may deduct from the total amount handled in daily double, quinella, exacta, and other multiple wagering pools approved by the board up to 3 percent thereof to be distributed as additional commissions and purses in the following percentage ratio: to the association as additional commission, 59.5 percent; to the horsemen as additional purses, 40.5 percent.

(b) From the amount deducted for quarter or Appaloosa horse purses under subdivision (a), a sum equal to 13.33 percent thereof shall be held by the association to be paid as owners' premiums for California bred winners at the meeting. Such premiums shall be distributed within 10 days of the close of the meeting on a prorated percentage basis of first moneys earned to persons owning California-bred quarter horses and California-bred Appaloosa horses at the time of their wins at races having a total purse value of three thousand five hundred dollars (\$3,500) or more.

The board shall designate the officially recognized organizations representing quarter horse and Appaloosa horsemen to administer this subdivision and to distribute premiums.

(c) At least 30 days prior to the commencement of its meeting, the association shall file with the board a statement of the additional deduction to be made pursuant to subdivision (a). Except with the consent of the board the amount of such deduction shall not be changed during the course of the meeting.

(d) In addition to the amounts otherwise deducted pursuant to this section, every harness racing association shall deduct an additional 2 percent of its exotic parimutuel pools to be distributed equally as commissions and purses.

SEC. 18.2. Section 19612.2 of the Business and Professions Code is amended to read:

19612.2. (a) In addition to the amounts otherwise deducted pursuant to this chapter, every association with an average daily handle of six hundred fifty thousand dollars (\$650,000) or less, except an association subject to Section 19614.2, which conducts a harness, quarter, or Appaloosa horse meeting may deduct from the total amount handled in its daily exotic parimutuel pool up to 3 percent thereof to be distributed as additional commissions and purses as follows:

(1) For quarter horse meetings and Appaloosa horse meetings conducted pursuant to Section 19612.5, as agreed to by the association conducting the meeting and the organization representing the horsemen participating at the meeting.

(2) For harness meetings conducted pursuant to Section 19612.5 or for harness and quarter horse meetings conducted pursuant to

Section 19612.6, 50 percent as commissions and 50 percent as purses.

(b) From the amount deducted for quarter horse and Appaloosa horse purses under subdivision (a), a sum equal to 13.33 percent thereof shall be held by the association to be paid as owners' premiums for California bred horses winning at the meeting. Such premiums shall be distributed within 10 days of the close of the meeting on a prorated percentage basis of first moneys earned to persons owning California-bred quarter horses and California-bred Appaloosa horses at the time of their wins at races having a total purse value of three thousand five hundred dollars (\$3,500) or more.

The board shall designate the officially recognized organizations representing quarter horse and Appaloosa horsemen to administer this subdivision and to distribute premiums.

(c) At least 30 days prior to the commencement of its meeting, the association shall file with the board a statement of the additional deduction to be made pursuant to subdivision (a) and its distribution between commissions and purses. Except with the consent of the board, the amount of such deduction and its distribution shall not be changed during the course of the meeting.

(d) In addition to any deductions pursuant to this section, every harness racing association shall also deduct an additional 2 percent of its daily exotic parimutuel pool to be distributed equally as commissions and purses.

SEC. 18.5. Section 19612.5 of the Business and Professions Code is repealed.

SEC. 19. Section 19612.6 of the Business and Professions Code is amended to read:

19612.6. (a) Notwithstanding any other provision of this chapter, any association with an average daily handle of six hundred fifty thousand dollars (\$650,000) or less which conducts a racing meeting pursuant to Sections 19549, 19549.1, 19549.5, 19549.6, 19549.7, or 19701 shall deduct the amounts specified in Section 19610 to be distributed as license fees, commissions, and purses as provided by this section.

(b) Each such association shall pay a daily license fee based on its conventional and exotic parimutuel handle at the following rates:

Daily handle	License fee rate
\$300,000 and under .....	1.0 percent of the handle
\$300,001 to \$350,000 .....	\$3,000 plus 1.5 percent of the handle in excess of \$300,000
\$350,001 to \$400,000 .....	\$3,750 plus 2.0 percent of the handle in excess of \$350,000
\$400,001 to \$450,000 .....	\$4,750 plus 2.5 percent of the handle in excess of \$400,000
\$450,001 to \$500,000 .....	\$6,000 plus 3.0 percent of the handle in excess of \$450,000
\$500,001 to \$550,000 .....	\$7,500 plus 3.5 percent of the handle in excess of \$500,000
\$550,001 or more .....	\$9,250 plus 4.0 percent of the handle

in excess of \$550,000

(c) For harness and mixed meetings the amount remaining after deduction of the state license fee pursuant to subdivision (b) shall be distributed equally between commissions and purses. For quarter horse and muleracing meetings, the amount remaining after deduction of the state license fee pursuant to subdivision (b) shall be distributed between commissions and purses as agreed to by the association conducting the meeting and the organization representing the horsemen or mulemen participating in the meeting. For fair meetings conducted pursuant to Section 19549, the amount remaining after deduction of the state license fee pursuant to subdivision (b) shall be distributed 48 percent to commissions and 52 percent to purses.

Every association which conducts a racing meeting pursuant to Section 19549 shall, in addition, deduct from its parimutuel pools the amount specified in subdivision (d) of Section 19614.

(d) In the event that any association qualified to operate its meeting pursuant to the provisions of this section conducts two separate programs of racing on any day, each such program shall be considered a separate racing day for purposes of determining the daily handle and computing the distribution of license fees, commissions, and purses thereon. For the purposes of this subdivision, a program shall consist of at least nine races.

SEC. 20. Section 19614 of the Business and Professions Code is amended to read:

19614. (a) Notwithstanding the provisions of Sections 19611 and 19612, the California Exposition and State Fair or a district or county fair at which the average daily handle exceeds six hundred fifty thousand dollars (\$650,000) shall pay a daily license fee equal to 3.65 percent of its daily conventional parimutuel handle and 4.4 percent of its daily exotic parimutuel handle.

(b) Notwithstanding subdivision (a), any fair located within the area comprised of San Diego, Orange, and Los Angeles Counties which conducts its racing meeting, or any portion thereof, on the same days and at the same time of day as any other racing association within the area, shall pay a daily license fee equal to 2.92 percent of its daily conventional parimutuel handle and 3.67 percent of its daily exotic parimutuel handle. In addition, any fair racing association subject to subdivision (a) that has conducted its race meeting during the daytime since January 1, 1979, and thereafter conducts its race meeting at night, shall pay a license fee on its daily conventional and exotic parimutuel handle in accordance with the following schedule:

Daily Handle	License Fee
\$1,500,000 or less .....	2 percent of the handle
\$1,500,001 and more .....	\$30,000 plus 7.52 percent of the handle in excess of \$1,500,000

plus 0.75 percent of its daily exotic parimutuel handle. Except as provided in Section 19610.5, no such fair racing association shall pay a license fee in excess of 2.92 percent of its daily conventional parimutuel handle and 3.67 percent of its daily exotic parimutuel handle.

(c) After distribution of the applicable license fees as set forth in subdivision (a) or (b), all funds remaining from the deductions provided in Section 19610 shall be distributed 48 percent as commissions and 52 percent as purses.

The amount to be distributed as purses for the current racing meeting shall be based on respective parimutuel pools during the previous corresponding meeting, if any.

(d) In addition to the amounts deducted pursuant to Section 19610, any fair racing association shall deduct 1 percent from the total amount handled in its daily conventional and exotic parimutuel pools. The additional 1 percent shall be deposited in the Fair and Exposition Fund and is hereby appropriated for the purposes specified in Section 19627.2.

SEC. 20.5. Section 19615 of the Business and Professions Code is amended to read:

19615. (a) The board shall provide a method for estimating the aggregate handle for each association's proposed race meeting. Estimates may be revised during the course of such meeting. Based upon the estimate, each association shall pay its license fee weekly, and purses shall be reasonably allocated over the period of the association's anticipated race meeting pursuant to a purse program developed by the association in consultation with the horsemen's organization contracting with the association with respect to the conduct of racing meetings subject to approval of the board.

(b) Within seven (7) days after the close of a race meeting an association shall pay any license fee theretofore unpaid, or shall have refunded to it any excess license fee theretofore paid.

(c) If at the close of a thoroughbred racing meeting it is determined that the association conducting the meeting has not made payments to or for the benefit of owners and breeders of horses in an amount equaling the percentages set forth in this chapter, any excess shall be deducted from, and any deficiency not in excess of an amount agreed upon between the association and the horsemen's organization contracting with the association with respect to the conduct of racing meetings shall be added to the amount such association is required to pay to or for the benefit of owners and breeders of horses at its racing meeting in the following calendar year. Any deficiency in excess of the amount agreed upon shall be distributed as provided in such agreement.

(d) If at the close of any other racing meeting it is determined that the association conducting the meeting has not made payments to or for the benefit of owners and breeders of horses in an amount equaling the percentages set forth in this chapter, any excess shall be deducted from, and any deficiency shall be added to, the amount such association is required to pay to or for the benefit of owners and

breeders of horses at its racing meeting in the following calendar year.

(e) Any two associations conducting a meeting pursuant to Section 19612.6 may, with the approval of the board, combine their excesses or deficiencies from prior meetings if the associations and the organizations representing the horsemen all agree.

SEC. 21. Section 19616 of the Business and Professions Code is amended to read:

19616. Any racing association conducting a thoroughbred racing meeting shall deduct an amount equal to 0.34 percent of the total amount so handled for payments pursuant to Section 19617.

SEC. 22. Section 19617 of the Business and Professions Code is amended to read:

19617. (a) Any association conducting a thoroughbred racing meeting shall at the end of such meeting deposit with the official registering agency of California-bred thoroughbred racehorses as designated by the board, in a depository approved by the board the amount of 0.34 percent of the amount so handled referred to in Section 19616.

(b) The official registering agency shall distribute such funds pursuant to Section 19567 to the breeders of California-bred thoroughbred horses becoming entitled thereto at such thoroughbred racing meeting, except that a breeder of a thoroughbred horse winning or placing second or third in a race in this state shall be paid a sum equal to 10 percent of the respective share of the purse. A breeder of a California-bred thoroughbred winning a graded stakes race outside the state of California, with a purse value of twenty-five thousand dollars (\$25,000) or more, shall be paid a sum equal to 10 percent of the winner's share of the purse, with a maximum award of seven thousand five hundred dollars (\$7,500) for any one race.

(c) Following the close of each meeting the official registering agency shall pay an owners' premium award of up to 10 percent of the winner's share of the purse to the owner of a California-bred thoroughbred horse winning a race, other than a claiming race, at a thoroughbred meeting in this state, or a claiming race at thoroughbred racing meetings in the central and southern zones when the total purse exceeds 75 percent of the daily average purse distributed at that meeting during the prior year, or a claiming race at thoroughbred racing meetings in the northern zone when the total purse exceeds 150 percent of the daily average purse distributed at that meeting during the prior year. This payment shall be supplemented by the funds paid pursuant to subdivision (b) of Section 19611.5, except that the combined owner's premium award shall not be less than 10 percent nor exceed 20 percent for any one race.

(d) At the end of the fiscal year, the balance of such fund shall be distributed by the official registering agency as stallion awards. Stallion awards shall be made on a prorated percentage based on the winner's share of the purse, exclusive of nomination, entry, or starting fees, to the owner of a sire of California-bred thoroughbred

horses which win one or more races other than claiming races at a thoroughbred racing meeting, or a claiming race at thoroughbred racing meetings in the central or southern zone when the total purse exceeds 75 percent of the daily average purse distributed at that meeting during the prior year, or a claiming race at thoroughbred racing meetings in the northern zone when the total purse exceeds 150 percent of the daily average purse distributed at that meeting during the prior year, or any thoroughbred stakes race run at the California Exposition and State Fair, or at any county or district agricultural association fair, and, in the case of such California-bred thoroughbreds winning a graded stakes race outside the state of California, a prorated award shall be made to the owner of the sire, with a maximum award of seven thousand five hundred dollars (\$7,500) for any one race. Such awards shall not be made to the owner of a stallion which has been out of the state for breeding purposes during the calendar year.

(e) The maximum amount payable to the owner of a California stallion eligible for stallion awards for any one race shall be 3 percent of the total stallion awards fund for the year during which that race was run.

(f) The official registering agency shall make a deduction for expenses not to exceed 5 percent of the total awards fund, with such deductions having to be approved by the board, which shall report annually to the Governor and Legislature with respect to such distributions.

(g) In the event there are insufficient funds to make all of the distributions in this section, there shall be no additional assessments made against any associations to fund such deficiencies.

SEC. 23. Section 19617.5 is added to the Business and Professions Code, to read:

19617.5. (a) Any association conducting a racing meeting other than a thoroughbred racing meeting or a fair racing meeting shall pay the sums required to be paid by Section 19567 out of the amounts deducted from the parimutuel pool for license fees, commissions, and purses in the same proportion as the distribution of such license fees, commissions, and purses.

(b) Any association conducting a fair racing meeting shall pay the sums required to be paid by Section 19567 out of the amounts deducted from the parimutuel pool for license fees and commissions, in equal proportion.

SEC. 24. Section 19618 of the Business and Professions Code is amended to read:

19618. (a) No person licensed under this chapter to conduct a racing meeting shall pay or distribute directly or indirectly to or on behalf of any horse owner, or to any agent, or person or organization representing any horse owner or owners, as purses or similar payment to or for the benefit of horsemen, any consideration other than that expressly provided for in this chapter.

(b) No horse owner, nor any agent or person or organization

representing any horse owner or owners, shall receive, solicit or obtain from any person licensed under this chapter to conduct a race meeting as purses or similar payment to or for the benefit of horsemen, any consideration other than that expressly provided for in this chapter.

(c) No plaque, cup, tray, ribbon, trophy, or similar award given in recognition of achievement or special event shall be deemed to be consideration for the purpose of this section.

(d) This section shall not apply to any payment by an association in connection with any match race or special racing event.

(e) This section shall not apply to any payment or distribution by a non-dividend-paying corporation in accordance with its articles and bylaws.

SEC. 25. Section 19641 of the Business and Professions Code is amended to read:

19641. (a) Ninety days after the close of any horse racing meeting any redistributable money in a parimutuel pool subject to payment to a claimant pursuant to Section 19598, but not successfully claimed within that period, shall be paid to the board.

(b) All such redistributable money resulting from the thoroughbred, harness, or quarter horse meetings, but excluding the meetings of the California Exposition and State Fair or a county, district agricultural association, or citrus fruit fair meetings shall be distributed as follows:

(1) Fifty percent shall be used by the board to support research on matters pertaining to horse racing and racetrack security. The redistributable money provided to the board pursuant to this paragraph shall be subject to annual budgetary review by the Legislature.

(2) Fifty percent shall be paid to a welfare fund established by the horsemen's organization contracting with the association with respect to the conduct of racing meetings for the benefit of horsemen, and said organization shall make an accounting to the board within one calendar year of the receipt of such payment.

(c) All such redistributable money from other meetings shall be paid immediately into the State Treasury to the credit of the General Fund.

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## CHAPTER 1044

An act to add Sections 14016.6, 14016.7, and 14016.8 to, and to repeal and add Section 14016.5 of the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 25, 1980. Filed with  
Secretary of State September 26, 1980.]

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

SECTION 1. Section 14016.5 of the Welfare and Institutions Code is repealed.

SEC. 2. Section 14016.5 is added to the Welfare and Institutions Code, to read:

14016.5. (a) At the time of determining or redetermining the eligibility of a Medi-Cal applicant or beneficiary who resides in an area served by a prepaid health plan in which beneficiaries may enroll, the county shall inform the Medi-Cal applicant or beneficiary of options available regarding methods of receiving Medi-Cal benefits included in subdivisions (b) and (c).

(b) Each Medi-Cal beneficiary and eligible applicant shall, as a condition of coverage for Medi-Cal benefits, choose either of the following:

(1) To obtain benefits by receiving a monthly Medi-Cal card, which may be used to obtain services from individual providers who choose to provide services to Medi-Cal beneficiaries; or

(2) To obtain benefits by enrolling in a prepaid health plan contracting with the department to service Medi-Cal beneficiaries.

(c) Until such time as a Medi-Cal beneficiary or eligible applicant makes a choice, such person shall be provided with a monthly Medi-Cal card.

In areas where there is no prepaid health plan which has contracted with the department to provide services to Medi-Cal beneficiaries, no explicit choice need be made, and the beneficiary or eligible applicant shall receive a monthly Medi-Cal card.

SEC. 3. Section 14016.6 is added to the Welfare and Institutions Code, to read:

14016.6. The State Department of Health Services shall develop a program to implement the provisions of Section 14016.5. The program shall include, but not be limited to, the following components:

(a) Development of a method to inform beneficiaries and applicants of their choices for receiving Medi-Cal benefits including the solicitation from representatives of the fee-for-service sector and from prepaid health plans, marketing materials including printed materials, films, and exhibits, to be provided to Medi-Cal beneficiaries and applicants when choosing methods of receiving health care benefits. The department shall not be responsible for the costs of developing this material.

The department may prescribe the format and edit such materials for factual accuracy, objectivity and comprehensibility. The department shall use such edited materials in informing beneficiaries and applicants of their choices for receiving Medi-Cal benefits.

(b) Provision of information that is necessary to implement this program in a manner that fairly and objectively explains to beneficiaries and applicants their choices for methods of receiving

Medi-Cal benefits.

(c) Solicitation of and preparation of a list of providers who will provide services to Medi-Cal beneficiaries. Such lists shall be made available to Medi-Cal beneficiaries and applicants at the same time the beneficiary or applicant is being informed of the options available for receiving care.

(d) Training of specialized county employees to carry out the program.

(e) Monitoring the implementation of the program in those county welfare offices where choices are made available in order to assure that beneficiaries and applicants may make a well-informed choice, without duress.

If a county-sponsored prepaid health plan is offered, the responsibilities outlined in this section shall be carried out either by a specially trained state employee or by an independent contractor paid by the department.

SEC. 4. Section 14016.7 is added to the Welfare and Institutions Code, to read:

14016.7. The department shall establish a schedule which will allow for a phase-in of these programs in all county offices where a choice is made available to Medi-Cal beneficiaries and applicants pursuant to Sections 14016.5 and 14016.6. The phase-in shall be completed and all programs shall be operational no later than December 31, 1981.

SEC. 5. Section 14016.8 is added to the Welfare and Institutions Code, to read:

14016.8. The department shall incorporate in its annual report to the Legislature statistics reflecting the relative frequency with which each method of receiving Medi-Cal benefits pursuant to Sections 14016.5 and 14016.6 is chosen. The department shall annually conduct a survey to determine beneficiary satisfaction with the method of receiving Medi-Cal benefits, and the findings of the survey shall be incorporated in the department's annual report to the Legislature.

SEC. 6. 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.

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## CHAPTER 1045

An act to add Section 13076 to the Public Resources Code, relating to resort improvement districts.

[Approved by Governor September 25, 1980. Filed with  
Secretary of State September 26, 1980 ]

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

SECTION 1. Section 13076 is added to the Public Resources Code, to read:

13076. Notwithstanding any other provision of this chapter, and in addition to any other powers conferred thereby, Resort Improvement District Number 1, in the County of Humboldt, may produce, purchase, and sell electrical power within the boundaries of the district.

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## CHAPTER 1046

An act to amend Section 8897 of, to amend and renumber Section 8898 of, and to add Section 8895.1 to, the Government Code, relating to the Seismic Safety Commission, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1980. Filed with  
Secretary of State September 26, 1980 ]

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

SECTION 1. Section 8895.1 is added to the Government Code, to read:

8895.1. The commission shall initiate, with the assistance and participation of other state, federal, and local government agencies, a comprehensive program to prepare the state for responding to a major earthquake prediction. The program should be implemented in order to result in specific tools or products to be used by governments in responding to an earthquake prediction, such as educational materials for citizens. This program may be implemented on a prototypical basis in one area of the state affected by earthquake predictions, provided that it is useful for application in other areas of the state upon its completion.

SEC. 2. Section 8897 of the Government Code is amended to read:

8897. The commission is responsible for all of the following in connection with earthquake hazard mitigation:

- (a) Setting goals and priorities in the public and private sectors.
- (b) Requesting appropriate state agencies to devise criteria to promote earthquake and disaster safety.
- (c) Scheduling a report on disaster mitigation issues from the Office of Emergency Services, on the commission agenda as required. For the purposes of this subdivision, the term disaster refers to all natural hazards which could have impact on public safety.

(d) Recommending program changes to state agencies, local agencies, and the private sector where such changes would improve earthquake hazards and reduction.

(e) Reviewing the recovery and reconstruction efforts after damaging earthquakes.

(f) Gathering, analyzing, and disseminating information.

(g) Encouraging research.

(h) Sponsoring training to help improve the competence of specialized enforcement and other technical personnel.

(i) Helping to coordinate the earthquake safety activities of government at all levels.

(j) Establishing and maintaining necessary working relationships with any boards, commissions, departments, and agencies, or other public or private organizations.

SEC. 3. Section 8898 of the Government Code is amended and renumbered to read:

8897.1. To implement the foregoing responsibilities, the commission may do any of the following:

(a) Review state budgets and review grant proposals, other than those grant proposals submitted by institutions of postsecondary education to the federal government, for earthquake related activities and to advise the Governor and Legislature thereon.

(b) Review legislative proposals, related to earthquake safety 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 undue hazards or when new developments would promote earthquake hazard mitigation, and conduct public hearings as deemed necessary on the subjects.

(d) In the conduct of any hearing, investigation, inquiry, or study which is ordered or undertaken in any part of the state, to administer oaths and issue subpoenas for the attendance of witnesses and the production of papers, records, reports, books, maps, accounts, documents, and testimony.

(e) In addition, the commission may perform any of the functions contained in subdivisions (a) to (d), inclusive, in relation to other disasters, as defined in subdivision (c) of Section 8897, in connection with issues or items reported or discussed with the Office of Emergency Services at any commission meeting.

SEC. 4. The sum of seven hundred fifty thousand dollars (\$750,000) is hereby appropriated from the General Fund to the Seismic Safety Commission for carrying out the provisions of Section 8895.1 of the Government Code as added by this act, contingent upon receipt of matching federal funds.

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 protect the public safety against earthquakes, including the imminent possibility of major earthquake predictions being made within the next 12 months, it is necessary that this act take effect immediately.

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## CHAPTER 1047

An act to amend Section 13507, and to amend, add, and repeal Section 1464, of the Penal Code, to peace officer training, and making an appropriation therefor.

[Approved by Governor September 25, 1980 Filed with  
Secretary of State September 26, 1980.]

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

SECTION 1. Section 1464 of the Penal Code, as added by Section 4 of Chapter 530 of the Statutes of 1980, is amended to read:

1464. There shall be levied an assessment in an amount equal to three dollars (\$3) for every ten dollars (\$10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle 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 the county pursuant to paragraph (iii) of subdivision (3) of Section 258 of the Welfare and Institutions Code.

Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

When any deposit of bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section, shall also be returned.

In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family.

After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. It shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

The moneys so deposited shall be distributed as follows:

(a) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.55 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(b) Once a month there shall be transferred into the Indemnity Fund an amount equal to 9.38 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature to be divided equally until January 1, 1982, to indemnify persons filing claims pursuant to Chapter 5 (commencing with Section 13959) of Part 4 of Division 3 of Title 2 of the Government Code, and to provide assistance to established local comprehensive programs for victims and witnesses in accordance with the provisions of Section 13967 of the Government Code.

(c) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 33.03 percent of the funds deposited in the Assessment Fund during the preceding month.

(d) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 44.81 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be transferred to the General Fund in reimbursement for amounts appropriated therefrom for the laboratory phases of driver education pursuant to Section 41304 of the Education Code.

(e) Once a month there shall be transferred into the Corrections Training Fund an amount equal to 12.23 percent of the funds deposited in the Assessment Fund during the preceding month.

This section shall remain in effect only until December 31, 1981, and as of that date is repealed.

SEC. 2. Section 1464 of the Penal Code, as added by Section 4.1 of Chapter 530 of the Statutes of 1980, is amended to read:

1464. There shall be levied an assessment in an amount equal to three dollars (\$3) for every ten dollars (\$10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle 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 the county pursuant to paragraph (iii) of subdivision (3) of Section 258 of the Welfare and Institutions Code.

Where multiple offenses are involved, the assessment shall be

based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section, shall also be returned.

In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family.

After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. It shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

The moneys so deposited shall be distributed as follows:

(a) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.55 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(b) Once a month there shall be transferred into the Indemnity Fund an amount equal to 9.38 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature to indemnify persons filing claims pursuant to Chapter 5 (commencing with Section 13959) of Part 4 of Division 3 of Title 2 of the Government Code.

(c) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 28.96 percent of the funds deposited in the Assessment Fund during the preceding month.

(d) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 48.88 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be transferred to the General Fund in reimbursement for amounts appropriated therefrom for the laboratory phases of driver education pursuant to Section 41304 of the Education Code.

(e) Once a month there shall be transferred into the Corrections Training Fund an amount equal to 12.23 percent of the funds deposited in the Assessment Fund during the preceding month.

This section shall become operative on January 1, 1982, shall remain in effect only until June 30, 1982, and as of that date is repealed.

SEC. 3. Section 1464 is added to the Penal Code, to read:

1464. There shall be levied an assessment in an amount equal to three dollars (\$3) for every ten dollars (\$10) or fraction thereof, upon every fine, penalty, or forfeiture imposed and collected by the courts for criminal offenses, including all offenses involving a violation of a section of the Vehicle Code or any local ordinance adopted pursuant to the Vehicle 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 the county pursuant to paragraph (iii) of subdivision (3) of Section 258 of the Welfare and Institutions Code.

Where multiple offenses are involved, the assessment shall be based upon the total fine or bail for each case. When a fine is suspended, in whole or in part, the assessment shall be reduced in proportion to the suspension.

When any deposited bail is made for an offense to which this section applies, and for which a court appearance is not mandatory, the person making such deposit shall also deposit a sufficient amount to include the assessment prescribed by this section for forfeited bail. If bail is returned, the assessment made thereon pursuant to this section, shall also be returned.

In any case where a person convicted of any offense, to which this section applies, is in prison until the fine is satisfied, the judge may waive all or any part of the assessment, the payment of which would work a hardship on the person convicted or his immediate family.

After a determination by the court of the amount due, the clerk of the court shall collect the same and transmit it to the county treasury. It shall then be transmitted to the State Treasury to be deposited in the Assessment Fund, which is hereby created. The transmission to the State Treasury shall be carried out in the same manner as fines collected for the state by a county.

The moneys so deposited shall be distributed as follows:

(a) Once a month there shall be transferred into the Fish and Game Preservation Fund an amount equal to 0.55 percent of the funds deposited in the Assessment Fund during the preceding month, but in no event shall the amount be less than the assessment levied on fines or forfeitures for violation of state laws relating to the protection or propagation of fish and game. Such moneys are to be used for the education or training of department employees which fulfills a need consistent with the objectives of the Department of Fish and Game.

(b) Once a month there shall be transferred into the Indemnity Fund an amount equal to 9.38 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be available for appropriation by the Legislature to indemnify persons filing claims pursuant to Chapter 5 (commencing with Section

13959) of Part 4 of Division 3 of Title 2 of the Government Code.

(c) Once a month there shall be transferred into the Peace Officers' Training Fund an amount equal to 28.96 percent of the funds deposited in the Assessment Fund during the preceding month.

(d) Once a month there shall be transferred into the Driver Training Penalty Assessment Fund an amount equal to 61.11 percent of the funds deposited in the Assessment Fund during the preceding month. Such funds shall be transferred to the General Fund in reimbursement for amounts appropriated therefrom for the laboratory phases of driver education pursuant to Section 41304 of the Education Code.

This section shall become operative on July 1, 1982, shall remain in effect only until January 1, 1983, and as of that date is repealed.

SEC. 4. Section 13507 of the Penal Code is amended to read:

13507. As used in this chapter, "district" means any of the following:

- (a) A regional park district.
- (b) A district authorized by statute to maintain a police department.
- (c) The University of California.
- (d) The California State University and Colleges.
- (e) A community college district.

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## CHAPTER 1048

An act to amend Section 66427.1 of the Government Code and to amend Section 8 of Chapter 1192 of the Statutes of 1979, relating to subdivisions.

[Approved by Governor September 25, 1980. Filed with Secretary of State September 26, 1980.]

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

SECTION 1. Section 66427.1 of the Government Code is amended to read:

66427.1. The legislative body shall not approve a final map for a subdivision to be created from the conversion of residential real property into a condominium project, a community apartment project, or a stock cooperative project unless it finds all of the following:

- (a) Each of the tenants of the proposed condominium, community apartment project or stock cooperative project has received, pursuant to Section 66452.9, written notification of intention to convert at least 60 days prior to the filing of a tentative map pursuant to Section 66452. There shall be a further finding that each such tenant, and each person applying for the rental of a unit

in such residential real property, has, or will have, received all applicable notices and rights now or hereafter required by this chapter or Chapter 3 (commencing with Section 66451). In addition, a finding shall be made that each tenant has received 10 days' written notification that an application for a public report will be, or has been, submitted to the Department of Real Estate, and that such report will be available on request. The written notices to tenants required by this subdivision shall be deemed satisfied if such notices comply with the legal requirements for service by mail.

(b) Each of the tenants of the proposed condominium, community apartment project, or stock cooperative project has been, or will be, given written notification within 10 days of approval of a final map for the proposed conversion.

(c) Each of the tenants of the proposed condominium, community apartment project, or stock cooperative project has been, or will be, given 180 days' written notice of intention to convert prior to termination of tenancy due to the conversion or proposed conversion. The provisions of this subdivision shall not alter or abridge the rights or obligations of the parties in performance of their covenants, including, but not limited to, the provision of services, payment of rent or the obligations imposed by Sections 1941, 1941.1, and 1941.2 of the Civil Code.

(d) Each of the tenants of the proposed condominium, community apartment project, or stock cooperative project has been, or will be, given notice of an exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of his or her intention not to exercise the right.

(e) This section shall not diminish, limit or expand, other than as provided herein, the authority of any city, county, or city and county to approve or disapprove condominium projects.

SEC. 1.5. Section 8 of Chapter 1192 of the Statutes of 1979 is amended to read:

Sec. 8. (a) Except as provided in subdivision (b):

(1) Any sales made pursuant to a subdivision public report hereafter issued by the Department of Real Estate for a stock cooperative conversion shall not be deemed invalid under the provisions of this act, if the application for that public report, including payment of an appropriate fee, was made prior to July 1, 1979.

(2) Paragraph (1) shall not apply to stock cooperative conversions which occur in the jurisdiction of governmental agencies which by legislative action regulated such conversions under the provisions of the Subdivision Map Act prior to January 1, 1980. Governmental agency regulation of such conversions under the provisions of the

Subdivision Map Act, which was exercised pursuant to a legislative enactment prior to January 1, 1980, shall not be invalidated by this section; provided, that no such regulation enacted after July 1, 1979, shall affect a stock cooperative conversion if the application for that conversion's public report, including payment of an appropriate fee, was made prior to July 1, 1979.

(b) If the application for a subdivision public report for a stock cooperative conversion in a general law city, including payment of an appropriate fee, was made prior to September 30, 1979, and the general law city did not by legislative action regulate the conversion under the provisions of the Subdivision Map Act prior to the application for the subdivision public report, including payment of an appropriate fee, the provisions of this act shall not affect the stock cooperative conversion and the Real Estate Commissioner shall, if the conversion meets all applicable requirements of Chapter 1 (commencing with Section 11000) of Part 2 of Division 4 of the Business and Professions Code, issue the public report for the conversion.

However, a stock cooperative conversion described in this subdivision shall, as a condition of the issuance of the public report, meet the requirements of the provisions of Section 66427.1 of the Government Code without the requirement of obtaining a final map approval of the stock cooperative conversion.

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.

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## CHAPTER 1049

An act to add Section 1192.3 to the Insurance Code, relating to investments by insurers.

[Approved by Governor September 25, 1980. Filed with  
Secretary of State September 26, 1980 ]

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

SECTION 1. Section 1192.3 is added to the Insurance Code, to read:

1192.3. Excess fund investments may be made by a life insurer having admitted assets aggregating in value not less than two hundred million dollars (\$200,000,000) in the following:

(a) Equipment obligations, securities, or certificates of any equipment trust evidencing rights to receive partial payments

agreed to be made upon any contract of leasing or conditional sale.

(b) The purchase and ownership of machinery or equipment, which is or will within 30 days after acquisition become subject to contracts for sale or use under which contractual payments may reasonably be expected to return the principal of and provide earnings on the investment within the anticipated useful life of the property which shall be not less than five years.

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 such insurer then owning such obligations, securities, certificates, machinery and equipment in an amount exceeding five percent of such insurer's admitted assets as determined by the insurer's last preceding annual statement filed with the commissioner.

Any investment in a single piece of machinery or equipment shall not be made in excess of one percent of the insurer's admitted assets or 10 percent of the aggregate of the insurer's capital paid-up and unassigned surplus, whichever is larger.

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## CHAPTER 1050

An act to repeal Sections 812 and 812.5 of the Civil Code, to amend Sections 7050 and 66477.2 of, and to repeal Article 5 (commencing with Section 50430) of Chapter 2 of Part 1 of Division 1 of Title 5 of, the Government Code, and to amend Sections 73, 954, 954.5, and 960.5 of, to repeal and add Part 3 (commencing with Section 8300) to Division 9 of, to repeal Sections 72, 72.5, 100.23, 256.1, 955, 956, 956.8, 957, 957.5, 958, 959, 959.1, 960, 960.1, 960.2, 960.3, and 960.4 of, and to repeal Chapter 5 (commencing with Section 835) of Division 1 and Chapter 5 (commencing with Section 1930) of Division 2.5 of, the Streets and Highways Code, relating to vacation of public streets, highways, and service easements.

[Approved by Governor September 25, 1980 Filed with  
Secretary of State September 26, 1980]

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

**SECTION 1.** Section 812 of the Civil Code is repealed.

**SEC. 2.** Section 812.5 of the Civil Code is repealed.

**SEC. 3.** Section 7050 of the Government Code is amended to read:

**7050.** With the consent of the city, county, or city and county, as the case may be, an irrevocable offer of dedication of real property for any public purpose, including, but not limited to, streets, highways, paths, alleys, including access rights and abutter's rights, drainage, open space, public utility or other public easements, parks, or other public places, may be made pursuant to this section. Such

offer of dedication shall be executed, acknowledged, and recorded in the same manner as a conveyance of real property. Such offer of dedication, when recorded in the office of the county recorder, shall be irrevocable and may be accepted at any time by the city council of the city within which such real property is located at the time of acceptance or, if located in unincorporated territory, by the board of supervisors of the county within which such real property is located.

Such offer of dedication may be terminated and the right to accept such offer abandoned in the same manner as is prescribed for the summary vacation of streets or highways by Part 3 (commencing with Section 8300) of Division 9 of the Streets and Highways Code. Such termination and abandonment may be by the city council of the city within which such real property is located or, if located in unincorporated territory, by the board of supervisors of the county within which such real property is located.

The procedure prescribed by this section shall be alternative to any other procedure authorized by law.

SEC. 4. Article 5 (commencing with Section 50430) of Chapter 2 of Part 1 of Division 1 of Title 5 of the Government Code is repealed.

SEC. 5. Section 66477.2 of the Government Code is amended to read:

66477.2. (a) If at the time the final map is approved, any streets, paths, alleys, rights-of-way for local transit facilities such as bus turnouts, benches, shelters, landing pads, and similar items, which directly benefit the residents of a subdivision, or storm drainage easements are rejected, subject to Section 771.010 of the Code of Civil Procedure, the offer of dedication shall remain open and the legislative body may by resolution at any later date, and without further action by the subdivider, rescind its action and accept and open the streets, paths, alleys, rights-of-way for local transit facilities such as bus turnouts, benches, shelters, landing pads, and similar items, which directly benefit the residents of a subdivision, or storm drainage easements for public use, which acceptance shall be recorded in the office of the county recorder.

(b) In the case of any subdivision fronting upon the ocean coastline or bay shoreline, the offer of dedication of public access route or routes from public highways to land below the ordinary high water mark shall be accepted within three years after the approval of the final map; in the case of any subdivision fronting upon any public waterway, river, or stream, the offer of dedication of public access route or routes from public highways to the bank of the waterway, river, or stream and the public easement along a portion of the bank of the waterway, river, or stream shall be accepted within three years after the approval of the final map; in the case of any subdivision fronting upon any lake or reservoir which is owned in part or entirely by any public agency, including the state, the offer of dedication of public access route or routes from public highways to any water of such lake or reservoir shall be accepted within five years after the approval of the final map; all other offers of dedication

may be accepted at any time.

(c) Offers of dedication which are covered by subdivision (a) may be terminated and abandoned in the same manner as prescribed for the summary vacation of streets by Part 3 (commencing with Section 8300) of Division 9 of the Streets and Highways Code.

(d) Offers of dedication which are not accepted within the time limits specified in subdivision (b) shall be deemed abandoned.

(e) Except as provided in Sections 66499.16, 66499.17, and 66499.18, if a resubdivision or reversion to acreage of the tract is subsequently filed for approval, any offer of dedication previously rejected shall be deemed to be terminated upon the approval of the map by the legislative body.

SEC. 6. Section 72 of the Streets and Highways Code is repealed.

SEC. 7. Section 72.5 of the Streets and Highways Code is repealed.

SEC. 8. Section 73 of the Streets and Highways Code is amended to read:

73. The commission shall relinquish to any county or city any portion of any state highway within such county or city which has been deleted from the state highway system by legislative enactment, and such relinquishment shall become effective upon the first day of the next calendar or fiscal year, whichever first occurs after the effective date of such legislative enactment. It may likewise relinquish any portion of any state highway which has been superseded by relocation. Whenever the department and the county or city concerned have entered into an agreement providing therefor, or the legislative body of such county or city has adopted a resolution consenting thereto, the commission may relinquish, to any such county or city, any frontage or service road or outer highway, within the territorial limits of such county or city, which has a right-of-way of at least 40 feet in width and which has been constructed as a part of a state highway project, but does not constitute a part of the main traveled roadway thereof. The commission may also relinquish, to a county or city within whose territorial limits is located, any nonmotorized transportation facility, as defined in Section 156, constructed as part of a state highway project if the county or city, as the case may be, has entered into an agreement providing therefor or its legislative body has adopted a resolution consenting thereto.

Relinquishment shall be by resolution. A certified copy of such resolution shall be filed with the board of supervisors or the city clerk, as the case may be. A certified copy of such resolution shall also be recorded in the office of the recorder of the county where such land is located and, upon such recordation, all right, title, and interest of the state in and to such portion of any state highway shall vest in the county or city, as the case may be, and such highway or portion thereof shall thereupon constitute a county road or city street, as the case may be.

The vesting of all right, title, and interest of the state in and to such

portions of any state highways heretofore relinquished by the commission, in the county or city to which it was relinquished, is hereby confirmed.

Prior to relinquishing any portion of a state highway to a county or a city, except where required by legislative enactment, the department shall give 90 days' notice in writing of intention to relinquish to the board of supervisors, or the city council, as the case may be. Where the resolution of relinquishment contains a recital as to the giving of the notice, adoption of the resolution of relinquishment shall be conclusive evidence that the notice has been given.

The commission shall not relinquish to any county or city any portion of any state highway which has been superseded by relocation until the department has placed the highway, as defined in Section 23, in a state of good repair. This requirement shall not obligate the department for widening, new construction, or major reconstruction, except as the commission may direct. A state of good repair requires maintenance, as defined in Section 27, including litter removal, weed control, and tree and shrub trimming to the time of relinquishment.

Within the 90-day period, the board of supervisors or the city council may protest in writing to the commission stating the reasons therefor, including, but not limited to, objections that the highway is not in a state of good repair, or is not needed for public use and should be vacated by the commission. In the event that the commission does not comply with the requests of the protesting body, it may proceed with the relinquishment only after a public hearing given to the protesting body on 10 days' written notice.

SEC. 9. Section 100.23 of the Streets and Highways Code is repealed.

SEC. 9.5. Section 256.1 of the Streets and Highways Code is amended to read:

256.1. Prior to submitting a written report required by statute recommending to the Legislature the deletion of a highway, or a portion thereof, from the state highway system, the commission or the department shall hold a public hearing on, and shall give written notices to the legislative bodies of the cities and counties located in the affected area of, the proposed recommendation, and shall publish notice of the public hearing in a newspaper of general circulation in the areas affected by the proposed deletion. The commission or the department may, at its own option, because of controversy or lack of local consensus, hold the hearing at a location which is reasonably convenient to the communities affected by the proposed deletion, to the general public, and to the commission or the department in the discharge of its regular business.

SEC. 10. Chapter 5 (commencing with Section 835) of Division 1 of the Streets and Highways Code is repealed.

SEC. 11. Section 954 of the Streets and Highways Code is amended to read:

954. All county highways which for a period of five consecutive years are impassable for vehicular travel, and on which during such period of time no public money is expended for maintenance, are unnecessary highways. The board of supervisors of any county on its own motion, or on the petition of any interested taxpayer of the county, may designate such county highway a stock trail. The board of supervisors shall cause notices to be posted upon such stock trails, and also at the entrance of such stock trails, directing all persons to drive all untethered stock thereon.

After a stock trail has been established or designated as provided in this chapter, the county is not liable for death or injury to a vehicle owner or operator or passenger, or for damage to a vehicle or its contents, resulting from a dangerous condition of the stock trail.

Such stock trails shall not be included in the term "maintained mileage of county roads" as that term is used in Chapter 3 (commencing with Section 2100) of Division 3.

SEC. 12. Section 954.5 of the Streets and Highways Code is amended to read:

954.5. (a) The board of supervisors may, by resolution, terminate the maintenance of any county highway if it finds that the highway is unnecessary for the public convenience.

(b) Evidence that a county highway is unnecessary for the public convenience shall be taken at a public hearing set in accordance with the procedures for vacation of a public street, highway, or service easement in Sections 8323 and 8324. Notice of such hearing shall be mailed to the owner of any property served by that portion of a county highway subject to the termination of maintenance. A county highway may be deemed unnecessary for the public convenience on the basis of any of the following:

(1) The county highway does not provide the primary access to occupied properties.

(2) Traffic on the county highway is intermittent and of low volume.

(3) The county highway is impassable for more than six months and there is no demand that it be reopened.

(c) A certified copy of the resolution terminating maintenance shall be recorded as provided in Section 8325.

(d) If the board of supervisors resumes maintenance of a county highway on which maintenance was terminated under this section, a notice of maintenance shall be recorded in the office of the county recorder.

(e) If a determination is made that maintenance is no longer necessary, the county shall post signs clearly visible from the traveled highway at the beginning and end of the highway and at any intersection on the highway indicating that the county no longer maintains the highway. The sign shall read as follows: "This road is not maintained. \_\_\_\_\_ County is not responsible for any loss or injury suffered by reason of its use." The county shall provide adequate maintenance to ensure that the signs remain posted in the

appropriate places and the message is legible. Once such action is taken and duly recorded and the required signs are posted, the county shall not be held liable for the death of or injury to a vehicle owner, operator, or passenger, or for damage to a vehicle or its contents, resulting from a dangerous condition on such highway.

SEC. 13. Section 955 of the Streets and Highways Code is repealed.

SEC. 14. Section 956 of the Streets and Highways Code is repealed.

SEC. 15. Section 956.8 of the Streets and Highways Code is repealed.

SEC. 16. Section 957 of the Streets and Highways Code is repealed.

SEC. 17. Section 957.5 of the Streets and Highways Code is repealed.

SEC. 18. Section 958 of the Streets and Highways Code is repealed.

SEC. 19. Section 959 of the Streets and Highways Code is repealed.

SEC. 20. Section 959.1 of the Streets and Highways Code is repealed.

SEC. 21. Section 960 of the Streets and Highways Code is repealed.

SEC. 22. Section 960.1 of the Streets and Highways Code is repealed.

SEC. 23. Section 960.2 of the Streets and Highways Code is repealed.

SEC. 24. Section 960.3 of the Streets and Highways Code is repealed.

SEC. 25. Section 960.4 of the Streets and Highways Code is repealed.

SEC. 26. Section 960.5 of the Streets and Highways Code is amended to read:

960.5. The term "county highway" as used in Sections 954 and 954.5 shall be deemed to include, but not be limited to, any public highway, road, street, avenue, alley, lane, drive, way, place, court, or trail, or any purported county highway, public highway, road, street, avenue, alley, lane, drive, way, place, court, or trail.

SEC. 27. Chapter 5 (commencing with Section 1930) of Division 2.5 of the Streets and Highways Code is repealed.

SEC. 28. Part 3 (commencing with Section 8300) of Division 9 of the Streets and Highways Code is repealed.

SEC. 29. Part 3 (commencing with Section 8300) is added to Division 9 of the Streets and Highways Code, to read:

### PART 3. PUBLIC STREETS, HIGHWAYS, AND SERVICE EASEMENTS VACATION LAW

#### CHAPTER 1. SHORT TITLE AND DEFINITIONS

8300. This part may be cited as the Public Streets, Highways, and Service Easements Vacation Law.

8301. Unless the provision or context otherwise requires, the definitions in this chapter shall govern the construction of this part.

8302. "Adoption" of a resolution includes passage or enactment of a resolution.

8303. "Clerk" includes a person or officer who is the clerk of a legislative body.

8304. "Legislative body" means:

(a) In the case of a county or city and county, the board of supervisors.

(b) In the case of a city, the city council or other body which, by law, is the legislative body of the government of the city.

(c) In the case of the California Transportation Commission, the commission.

8305. "Local agency" means a county, city, or city and county.

8305.5. "Public entity" means a local agency or the California Transportation Commission.

8306. "Public service easement" includes all or part of, or any right in:

(a) A right-of-way, easement, or use restriction acquired for public use by dedication or otherwise for sewers, pipelines, polelines, electrical transmission and communication lines, pathways, storm drains, drainage, canal, water transmission lines, light and air, and other limited use public easements other than for street or highway purposes.

(b) An easement or right of a type described in Section 8340.

8306.5. "Public utility" means a public utility as defined in Section 216 of the Public Utilities Code.

8307. "Resolution" includes an ordinance.

8308. "Street" and "highway" include all or part of, or any right in, a state highway or other public highway, road, street, avenue, alley, lane, driveway, place, court, trail, or other public right-of-way or easement, or purported public street or highway, and rights connected therewith, including, but not limited to, restrictions of access or abutters' rights, sloping easements, or other incidents to a street or highway.

8309. "Vacation" means the complete or partial abandonment or termination of the public right to use a street, highway, or public service easement.

## CHAPTER 2. GENERAL PROVISIONS

8310. This part shall be liberally construed in order to effectuate its purposes.

8311. (a) The procedures provided in this part are alternative procedures for vacating streets, highways, and public service easements. The authority granted in this part is an alternative to any other authority provided by law to public entities.

(b) The provisions of this part shall not apply to or affect any other provision of this code. If proceedings are commenced under this part, the provisions of this part, and no other provisions of this code, shall apply to the proceedings.

8312. Except as provided in Section 8315, a city legislative body may vacate, pursuant to this part, all or part of a street, highway, or public service easement within the city and a board of supervisors may vacate all or part of a street, highway, or public service easement within the county but outside a city.

8313. If the proposed vacation of a street, highway, or public service easement is within an area for which a general or master plan is adopted by a local agency, the legislative body of the public entity shall consider the general or master plan prior to vacating the street, highway, or public service easement. The legislative body may submit the proposed vacation to the local planning commission or planning agency and give the commission or agency an opportunity to report upon the proposed vacation.

8314. Section 2381 shall apply to a street, highway, or public service easement vacated pursuant to this part.

8315. A state highway may be vacated under this part only by the commission.

8316. One or more streets, highways, and public service easements, whether or not contiguous, may be included and vacated in the same proceeding.

8317. (a) Proof of publication of a notice shall be made by affidavit pursuant to the Code of Civil Procedure. Proof of the posting of a notice shall be made by affidavit of the person posting it, reciting the facts of the posting.

(b) An officer required to have any notice published or posted shall file the affidavit in his or her office. Failure to do so does not invalidate proceedings under this part. An affidavit so filed is prima facie evidence of the facts stated in it.

### CHAPTER 3. GENERAL VACATION PROCEDURE

8320. (a) The legislative body of a local agency may initiate a proceeding under this chapter by adopting a resolution of intention to vacate, which may be upon its own initiative or upon a petition or request of an interested person.

(b) The resolution of intention shall include all of the following:

(1) A declaration of the intention of the legislative body to vacate.

(2) A statement that the vacation proceeding is conducted under this chapter.

(3) A description of the general location and extent of the street, highway, or public service easement to be vacated and a reference to a map or plan, which shows the portion or area to be vacated, on file in the office of the local agency. In the case of a street or highway, the description shall include its lawful or official name or the name by which it is commonly known. In the case of a public service

easement, the description shall identify it with common certainty.

(4) The date, hour, and place for hearing all persons interested in the proposed vacation. The date shall be not less than 15 days from the adoption of the resolution.

(c) The resolution of intention shall be published or posted in the manner prescribed for the publication and posting of resolutions of the legislative body. The publication or posting of the resolution of intention shall be in addition to any publication of notice of hearing required by Section 8322 and the posting of notice of vacation required by Section 8323.

8321. (a) Ten or more freeholders may petition the board of supervisors to vacate a street or highway under this chapter. At least two of the petitioners shall be residents of the road district in which some part of the street or highway proposed to be vacated is situated and shall be taxable therein for street or highway purposes.

(b) Five or more freeholders may petition the board of supervisors to vacate a public service easement under this chapter. At least one of the petitioners shall be a resident of the township in which the public service easement proposed to be vacated is situated.

(c) The residence address of each petitioner shall be set forth in the petition.

(d) The board of supervisors may require the person filing the petition to deposit an amount reasonably sufficient to defray the expenses of investigations, mailings, publications, and postings under this chapter. The deposit shall be made with the county officer designated by the board. Upon completion of the proceedings, any unused portion of the deposit shall be refunded to the person who filed the petition. If the costs exceed the deposit, the county shall bear the excess costs.

(e) Upon the filing of a petition and the making of the deposit, if any, required under this section, the board of supervisors, by order, shall fix the date, hour, and place of the hearing on the petition. At least two weeks before the day set for the hearing, the clerk of the board shall mail a notice of the date, hour, and place of the hearing to each of the petitioners at the address set forth in the petition.

(f) Nothing in this section shall affect the right of a legislative body to initiate a proceeding under this chapter upon its own initiative, or upon petition or request of an interested person, or prevent the board of supervisors from vacating a street, highway, or public service easement without charging costs if the board determines it is in the public interest to do so.

8322. (a) Except as provided in subdivisions (b) and (c), notice of the date, hour, and place of the hearing on the resolution of intention or petition to vacate shall be published for at least two successive weeks prior to the hearing in a daily, semiweekly, or weekly newspaper published and circulated in the local agency conducting the proceeding and which is selected by the legislative body for that purpose or by the clerk or other officer responsible for

the publication where the legislative body has not selected any newspaper for that purpose.

(b) If the proceeding is conducted by a city and there is no daily, semiweekly, or weekly newspaper published and circulated in the city, the notice shall be published in some newspaper published in the county in which the city is located.

(c) Notice need not be published under this section in either of the following cases:

(1) Where the resolution of intention is published in a newspaper pursuant to subdivision (c) of Section 8320.

(2) Where there is no daily, semiweekly, or weekly newspaper published and circulating in the county in which the local agency conducting the proceeding is located.

8323. (a) At least two weeks before the day set for the hearing, the legislative body shall post conspicuously notices of vacation along the line of the street, highway, or public service easement proposed to be vacated. The notices shall be posted not more than 300 feet apart, but at least three notices shall be posted. If the line of the street, highway, or public service easement proposed to be vacated exceeds one mile in length, the legislative body may, in lieu of posting not more than 300 feet apart, post notices at each intersection of another street or highway with the street, highway, or public service easement to be vacated and at one point approximately midway between each intersection, but at least three notices shall be posted.

(b) The notices shall state the day, hour, and place of hearing and shall refer to the adoption of the resolution of intention or to the filing of the petition.

(c) The notices shall describe the street, highway, or public service easement proposed to be vacated. In the case of a street or highway, the description shall include its lawful or official name or the name by which it is commonly known. In the case of a public service easement, the description shall identify it with common certainty. A map or plan showing the location of the street, highway, or public easement proposed to be vacated is sufficient compliance with this subdivision.

8324. (a) At the hearing, the legislative body shall hear the evidence offered by persons interested.

(b) If the legislative body finds, from all the evidence submitted, that the street, highway, or public service easement described in the resolution of intention or petition is unnecessary for present or prospective public use, the legislative body may adopt a resolution vacating the street, highway, or public service easement. The resolution of vacation may provide that the vacation occurs only after conditions required by the legislative body have been satisfied and may instruct the clerk that the resolution of vacation not be recorded until the conditions have been satisfied.

8325. (a) The clerk shall cause a certified copy of the resolution of vacation, attested by the clerk under seal, to be recorded without

acknowledgment, certificate of acknowledgment, or further proof in the office of the recorder of the county in which the property is located. No fee shall be charged for recordation.

(b) Upon such recordation, the vacation is complete.

#### CHAPTER 4. SUMMARY VACATION

##### Article 1. Authority

8330. (a) The legislative body of a local agency may summarily vacate a street or highway that has been superseded by relocation.

(b) A street or highway shall not be summarily vacated pursuant to this section if vacation would do either of the following:

(1) Cut off all access to a person's property which, prior to relocation, adjoined the street or highway.

(2) Terminate a public service easement, unless the easement satisfies the requirements of Section 8333.

8330.5. (a) Subject to subdivisions (b) and (c), the commission may retain, relinquish to a local agency pursuant to Section 73, or summarily vacate a state highway that has been superseded by relocation.

(b) The commission shall not vacate a state highway unless the commission has first given a notice of relinquishment pursuant to Section 73 and the legislative body of the local agency has protested within the prescribed 90-day period that the highway is not needed for public use and should be vacated by the commission.

(c) If vacation of a state highway would cut off all access to the property of any person which, prior to relocation, adjoined the highway, the commission shall either retain the highway or relinquish it pursuant to Section 73.

8331. The legislative body of a local agency may summarily vacate a street or highway if both of the following conditions exist:

(a) For a period of five consecutive years, the street or highway has been impassable for vehicular travel.

(b) No public money was expended for maintenance on the street or highway during such period.

8332. The legislative body of a local agency may summarily vacate a street or highway pursuant to an agreement entered into with the department pursuant to Section 100.2 to close the street or highway at or near the point of its interception with a state freeway.

8333. The legislative body of a local agency may summarily vacate a public service easement in any of the following cases:

(a) The easement has not been used for the purpose for which it was dedicated or acquired for five consecutive years immediately preceding the proposed vacation.

(b) The date of dedication or acquisition is less than five years, and more than one year, immediately preceding the proposed vacation, and the easement was not used continuously since that date.

8334. The legislative body of a local agency may summarily

vacate any of the following:

(a) An excess right-of-way of a street or highway not required for street or highway purposes.

(b) A portion of a street or highway that lies within property under one ownership and that does not continue through such ownership or end touching property of another.

8334.5. Notwithstanding any other provision of this article, a street, highway, or public service easement may not be summarily vacated if there are in-place public utility facilities that are in use and would be affected by the vacation.

## Article 2. Procedure

8335. (a) The legislative body may vacate a street, highway, or public service easement pursuant to the authority provided in this chapter by adopting a resolution of vacation.

(b) The resolution of vacation shall state all of the following:

(1) That the vacation is made under this chapter.

(2) The name or other designation of the street, highway, or public service easement and a precise description of the portion vacated. The description of the portion vacated may be by a precise map which is recorded or to which reference is made in the resolution and which is permanently maintained by the public entity.

(3) The facts under which the summary vacation is made. If the vacation is made pursuant to Section 8332, the statement shall include the date of the agreement. The resolution is prima facie evidence of the facts stated.

(4) That from and after the date the resolution is recorded, the street, highway, or public service easement vacated no longer constitutes a street, highway, or public service easement.

8336. (a) The clerk shall cause a certified copy of the resolution of vacation, attested by the clerk under seal, to be recorded without acknowledgment, certificate of acknowledgment, or further proof in the office of the recorder of the county in which the property is located. No fee shall be charged for recordation.

(b) Upon such recordation, the vacation is complete.

## CHAPTER 5. RESERVATION AND PRESERVATION OF EASEMENTS

### Article 1. Reservation of Easements

8340. In a proceeding to vacate a street or highway:

(a) A public entity may reserve and except from the vacation the easement and right at any time, or from time to time, to construct, maintain, operate, replace, remove, and renew sanitary sewers and storm drains and appurtenant structures in, upon, over, and across a street or highway proposed to be vacated and, pursuant to any existing franchise or renewals thereof, or otherwise, to construct,

maintain, operate, replace, remove, renew, and enlarge lines of pipe, conduits, cables, wires, poles, and other convenient structures, equipment, and fixtures for the operation of gas pipelines, telegraphic and telephone lines, railroad lines, and for the transportation or distribution of electric energy, petroleum and its products, ammonia, and water, and for incidental purposes, including access to protect such works from all hazards in, upon, and over the street or highway proposed to be vacated.

(b) A local agency may reserve and except from vacation an easement for a future street or highway, unless the local agency finds that the street or highway is unnecessary for prospective public use.

(c) If there are in-place public utility facilities that are in use, a public entity shall, unless the legislative body determines the public convenience and necessity otherwise require, reserve, and except from the vacation any easement and right necessary to maintain, operate, replace, remove, or renew the public utility facilities.

8341. (a) In a proceeding to vacate a street or highway, if the legislative body determines that the public convenience and necessity require the reservation and exception of easements and rights-of-way for works enumerated in Section 8340, such reservations and exceptions shall be recited in the resolution of vacation, in addition to any other matter required to be recited therein. The recital may describe the reservations and exceptions by reference to a precise map which is recorded or to which reference is made in the resolution and which is permanently maintained by the public entity.

(b) Subsequent proceedings of the public entity in relation to the vacation, including a deed or conveyance of title to or an interest in the property, are subject to, and governed by, the reservations and exceptions recited in the resolution of vacation and the deed or conveyance shall contain a recital to that effect.

## Article 2. Preservation of Public Easements

8345. As used in this article, "public body" means a city or special district as defined in Section 54775 of the Government Code.

8346. (a) A public body or public utility may request a local agency for notice of proceedings to vacate a street or highway.

(b) Every local agency shall maintain an index of requests for notice of vacation proceedings received pursuant to this section. The index shall be made available to the public upon request.

8347. If a public body or public utility has requested notice of the vacation proceeding under Section 8346, the local agency shall give written notice of the vacation proceeding to the public body or public utility within 10 days after:

(a) The adoption of a resolution of intention or the filing of a petition to vacate.

(b) The adoption of the resolution of vacation in cases not covered by subdivision (a).

8348. (a) Within 30 days after receipt of the notice of the vacation proceeding, the public body may:

(1) Determine that public convenience and necessity require a public easement to maintain, operate, replace, remove, or renew its existing works installed in the street or highway that is the subject of the vacation proceeding.

(2) File for record in the office of the recorder in the county in which the vacated street or highway is located, a verified notice of its public easement so determined over the street or highway, or part thereof, that is particularly described in the notice.

(b) Failure to record the notice of public easement within 30 days after receipt of the notice of the vacation proceeding extinguishes the right of the public body to a public easement.

(c) If the local agency fails to give the required notice of the vacation proceeding, the public body may determine and record notice of its public easement at any time within 180 days after recordation of the resolution of vacation. The failure of the public body to record its notice within the 180-day period extinguishes the right of the public body to a public easement over the vacated street or highway.

8349. Nothing in this article shall be construed to:

(a) Affect any reservation or the right to reserve easements pursuant to this chapter or any other provision of this code.

(b) Make the rights of the public in or to a street or highway subordinate to a public easement determined pursuant to this article.

## CHAPTER 6. EFFECT OF VACATION

### Article 1. Effect on Property Rights

8350. Except as provided in Chapter 5 (commencing with Section 8340), the vacation of a street, highway, or public service easement extinguishes all public easements therein.

8351. Except as otherwise provided in Chapter 5 (commencing with Section 8340) or in this chapter, upon the vacation of a street, highway, or public service easement:

(a) If the public entity owns only an easement, title to the property previously subject to the easement is thereafter free from the easement.

(b) If the public entity owns the title, the legislative body may dispose of the property as provided in this chapter.

8352. (a) Except as provided in Section 8353, vacation of a street, highway, or public service easement pursuant to this part does not affect a private easement or other right of a person (including, but not limited to, a public utility, the state, a public corporation, or a political subdivision, other than the local agency adopting the resolution of vacation) in, to, or over the lands subject to the street, highway, or public service easement, regardless of the manner in which the private easement or other right was acquired.

(b) A private easement or other right described in subdivision (a) is subject to extinguishment under the laws governing abandonment, adverse possession, waiver, and estoppel.

8353. (a) Except as provided in subdivision (b), the vacation of a street or highway extinguishes all private easements therein claimed by reason of the purchase of a lot by reference to a map or plat upon which the street or highway is shown, other than a private easement of ingress and egress to the lot from or to the street or highway.

(b) A private easement claimed by reason of the purchase of a lot by reference to a map or plat upon which the street or highway is shown is not extinguished pursuant to subdivision (a) if, within two years after the date the vacation is complete, the claimant records a verified notice that particularly describes the private easement that is claimed in the office of the recorder of the county in which the vacated street or highway is located.

(c) Nothing in this section shall be construed to create a private easement, nor to extend a private easement now recognized by law, nor to make the rights of the public in or to a street or highway subordinate to a private easement. Nothing in this section affects the right of the owner of property that was subject to the vacated street or highway to commence an action to quiet title as against any claim of a private easement of any type, whether before or after recordation of a verified notice pursuant to this section.

## Article 2. Disposition of Excess Property

8355. If the legislative body of a public entity determines that property previously subject to a street, highway, or public service easement, title to which is owned by the public entity, is no longer needed by the public:

(a) In the case of property owned by a local agency, the legislative body may sell or exchange the property in the manner, and upon the terms and conditions, approved by the legislative body.

(b) In the case of property owned by the state, the department shall dispose of the property as provided in Section 118.

8356. (a) Notwithstanding Section 8311, if a street or highway is vacated by a local agency under this part, or under any other law or under its charter, for the purpose of opening a new street or highway in lieu of that vacated, the legislative body of the local agency may, by resolution, unless otherwise provided in its charter, convey by deed its interest in the street or highway vacated to the owners of the lands adjacent to or fronting on the street or highway in such manner as it deems that equity requires.

(b) If title to the property occupied by the vacated street or highway is owned by the local agency, the legislative body may impose any reasonable conditions, or demand compensation by exchange of lands, or otherwise, before conveying the property.

(c) The deeds provided for in this section shall not be delivered

to the grantees named in the deeds, until good and sufficient conveyances vesting in the local agency the title to the new street or highway opened in lieu of the street or highway vacated are delivered to the local agency.

(d) The authority granted in this section is permissive and does not affect any authority the local agency may have to hold the property for public use, dispose of the property by public bid, or take any other action with respect to the property authorized by law.

8357. The purchase price for any property sold by the legislative body of a local agency pursuant to this article shall be paid into the treasury of the local agency to the credit of any fund, available for the same purposes for which the property was used, that the legislative body designates.

#### CHAPTER 7. AGREEMENTS LIMITING VACATION

8360. A local agency may, by written contract, agree with another local agency that a street or highway running from either of the local agencies to, in, through, or across any incorporated territory of the other local agency may only be closed or vacated by the other local agency upon the consent and agreement of both local agencies.

8361. A written agreement between any local agencies made and ratified prior to January 1, 1981, by the respective legislative bodies of both local agencies and providing against the closing of streets or highways described in Section 8360, except in accordance with the terms of the agreement, is hereby ratified and declared valid.

8362. Whenever a written agreement is made pursuant to Section 8360, or has been made and is ratified by Section 8361, each contracting local agency has a public interest in the continued opening and use of any street or highway provided for in the agreement. The legislative body of the local agency in which the street or highway is located, shall only have power to close or vacate the street or highway in accordance with the laws of this state and in accordance with the written agreement evidenced by an effective resolution carrying into effect the written agreement and passed by the legislative body of the other local agency.

8363. Every agreement between local agencies made in accordance with the provisions of this chapter shall be recorded in the office of the county recorder of each county wherein lies any of the property through or across which the street or highway runs which is to be or has been closed or vacated.

SEC. 30. 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 1051

An act to add Article 2.3 (commencing with Section 10167) to Chapter 3 of Part 1 of Division 4 of, and to repeal Section 10143 of, the Business and Professions Code, relating to advance rental fee agents, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1980 Filed with  
Secretary of State September 26, 1980.]

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

SECTION 1. Section 10143 of the Business and Professions Code is repealed.

SEC. 2. Article 2.3 (commencing with Section 10167) is added to Chapter 3 of Part 1 of Division 4 of the Business and Professions Code, to read:

Article 2.3. Prepaid Rental Listing Service

10167. The definitions used in this section shall govern the construction and terms as used in this article:

(a) "Prepaid rental listing service" means the business of supplying prospective tenants with listings of residential real properties for tenancy, by publication or otherwise, pursuant to an arrangement under which the prospective tenants are required to pay a fee in advance of, or contemporaneously with, the supplying of the listings, but which does not otherwise involve the negotiation of rentals by the person conducting the service.

(b) "Licensee" means a person licensed to conduct a prepaid rental listing service or a person engaged in the business of a prepaid rental listing service under a real estate broker license.

(c) "Location" means the place, other than the main or branch office of a real estate broker, where a prepaid rental listing service business is conducted.

(d) "Designated agent" means the person who is in charge of the business of a prepaid rental listing service at a given location.

10167.1. This article shall not apply to a newspaper of general circulation.

10167.2. It is unlawful for any person to engage in the business of a prepaid rental listing service unless licensed in that capacity or unless licensed as a real estate broker.

10167.3. (a) A separate application for a license as a prepaid rental listing service shall be made in writing for each location to be operated by a licensee other than a real estate broker. Each such application shall be on forms provided by the department, shall be signed by the applicant, and shall be accompanied by a one hundred dollar (\$100) application fee for the first location, and a twenty-five

dollar (\$25) application fee for each additional location of the applicant.

Applications to add or eliminate locations during the term of a license shall be on forms prescribed by the department. A twenty-five dollar (\$25) application fee for the remainder of a license term for each location to be added shall accompany the application.

(b) A real estate broker may provide a prepaid rental listing service at a licensed office for the conduct of his or her real estate brokerage business if the business at the office is conducted under the immediate supervision of the broker or of a real estate salesperson licensed to, and acting on behalf of, the broker.

10167.4. The commissioner may require such proof as he may deem advisable concerning the honesty and truthfulness of any applicant for a license as a prepaid rental listing service, or of the officers, directors, and persons owning 25 percent or more of the shares of any corporation making such application, before authorizing the issuance of a license for a location. For this purpose, the commissioner may hold a hearing 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 may refuse to issue a license to an applicant who does not furnish satisfactory proof of his or her honesty and truthfulness or of the honesty and truthfulness of the corporate officers, directors and shareholders. To assist in his determination, the commissioner shall require the fingerprinting of every original applicant including officers, directors, and persons owning 25 percent or more of the shares of the corporate applicant.

10167.5. The business at a location licensed pursuant to subdivision (a) of Section 10167.3 shall be conducted under the immediate supervision of the licensee or a designated agent who is not a designated agent at any other location. Whenever a designated agent ceases permanently to be a designated agent at any location because of death, termination of employment, or any other reason, the licensee, within five days thereafter, shall give written notice to the department. A license issued for a particular location shall automatically expire 60 days after the time the business conducted at such location ceases for any reason to be under the charge of and managed by the designated agent of record with the department, unless within such 60-day period the licensee submits written notice of the new designated agent to the department.

A designated agent of the licensed service may serve as designated agent for the location in question as well as for the location for which he or she is the designated agent of record during the period of 60 days.

10167.6. Every applicant for a prepaid rental listing service license who is not a resident of this state shall file with the application for a license an irrevocable consent that in any action arising out of the activities of the prepaid rental listing service commenced against him or her in this state, if personal service of process upon him or her

cannot be made in this state in the exercise of due diligence, a valid service may be made upon him or her by delivering the process to the Secretary of State.

Insofar as possible, the provisions of Section 1018 of the Code of Civil Procedure relating to service of process on the Secretary of State are applicable to this section.

10167.7. Except as provided in Section 10167.8, each licensee shall provide to the department, and at all times maintain in force, a bond in the amount of two thousand five hundred dollars (\$2,500) for each location. Such bond may be in the form of a corporate surety bond, or a cash deposit. A cash deposit may be deposited by the licensee in an interest bearing account assigned to the commissioner, with interest earned thereon payable to the licensee. The bond or cash deposit may be utilized by the commissioner for the benefit of any unsatisfied judgment creditor in an action pursuant to subdivision (e) of Section 10167.10.

10167.8. The requirement of Section 10167.7 shall not apply to any prepaid rental listing service operated by: (a) a person exempt from the payment of federal and state income taxes; (b) an agency of the federal, state, or local government; or (c) a real estate broker conducting a prepaid rental listing service pursuant to a real estate license.

10167.9. (a) Prior to the acceptance of a fee from a prospective tenant, a licensee shall provide the prospective tenant with a written contract which shall include at least the following:

(1) The name of the licensee and the addresses and telephone numbers of the principal office or location of the licensee and of the location, or branch office of a real estate broker, providing the listing to the prospective tenant.

(2) Acknowledgement of receipt of the fee, including the amount.

(3) A description of the service to be performed by the licensee, including significant conditions, restrictions, and limitations where applicable.

(4) The prospective tenant's specifications for the rental property, including but not limited to:

(A) Type of structure, including but not limited to, detached single family home, apartment, or duplex.

(B) Location by commonly-accepted residential area name, by designation of boundary streets, or by any other manner affording a reasonable means of identifying locations acceptable to the prospective tenant.

(C) Furnished or unfurnished.

(D) Number of bedrooms required.

(E) Maximum acceptable monthly rental.

(5) The contract expiration date, which shall not be later than 90 days from the date of execution of the contract.

(6) A clause setting forth the right to a full refund of the fee paid in advance as provided in Section 10167.10.

(7) The signature of the licensee or of the designated agent, real

estate salesperson, or employee acting on behalf of the licensee.

(b) The original of each such contract shall be retained by the licensee for a period of not less than six months from the date of termination of the contract during which time the contract shall be subject to examination by a duly authorized representative of the commissioner.

(c) The form of contract proposed to be used by a licensee to effect compliance with this section shall be filed with the department prior to use. Any modification of a form previously filed with the department, including a change in the name or business address of the licensee, shall also be filed prior to use.

(d) If a prospective tenant first contacts the licensee by telephone from a distance of more than 50 miles from the nearest office of the service the licensee shall not be in violation of this section by taking credit card information from the prospective tenant by telephone for the purpose of charging the credit card account of the prospective tenant for the fee, if the licensee furnishes the information specified in subdivision (a) during the same telephone conversation and mails written confirmation and a list of available rental properties to the prospective tenant no later than the next business day.

10167.10. (a) (1) A licensee, other than a real estate broker, shall refund in full the advance fee paid by a prospective tenant if the licensee does not, within five days after execution of the contract, supply at least three rental properties then available to the prospective tenant and meeting the specifications of the contract.

(2) A licensee will be deemed to have supplied information meeting the specifications of the prospective tenant if the information supplied meets the contract specifications with reference to: (i) type of structure; (ii) designated area; (iii) furnished or unfurnished; (iv) number of bedrooms; (v) maximum rental; and (vi) any other specification expressly set forth in the contract. A demand for the return of the fee shall be made by or on behalf of the prospective tenant within 10 days following the expiration of the five-day period referred to above by delivery or by mailing by registered or certified mail to the address of a location, or branch office of a real estate broker, set forth in the contract.

(b) A licensee shall refund any amount over and above the sum of a twenty-five dollar (\$25) service charge to the prospective tenant if the prospective tenant does not obtain a rental, provided that the prospective tenant demands a return of that part of the fee within 10 days after the expiration of the contract.

(c) Each contract, other than a contract employed by a licensee who is a real estate broker, shall contain provisions which shall read as follows unless different language shall have been approved in writing by the department prior to use:

**RIGHT TO REFUND**

(Full caps, bold face or italicize)

"If, within five (5) days after payment of an advance fee, the

licensee has not supplied the prospective tenant with at least three (3) available rental properties meeting the specifications of the contract as to (i) type of structure; (ii) designated area; (iii) furnished or unfurnished; (iv) number of bedrooms; (v) maximum rental; and (vi) any other specification expressly set forth in the contract, the full amount of the fee paid shall be refunded to the prospective tenant upon presentation of evidence of such failure within ten (10) days after the expiration of the five (5) day period.

“If the prospective tenant does not obtain a rental through the services of the licensee, any amount paid in fees in excess of a twenty-five dollar (\$25) service charge shall be refunded to the prospective tenant, upon demand by the prospective tenant made within 10 days of the expiration of this contract.”

(d) Each contract employed by a real estate broker shall contain provisions which shall read as follows, unless different language shall have been approved in writing by the department prior to its use:

**RIGHT TO REFUND**

(Full caps, bold face or italicize)

“If the prospective tenant does not obtain a rental through the services of the licensee, any amount paid in fees in excess of a twenty-five dollar (\$25) service charge shall be refunded to the prospective tenant, upon demand by the prospective tenant made within 10 days of the expiration of this contract.”

(e) This section shall not apply to a person purchasing rental information for a purpose other than that of locating a rental unit for personal use or the use of a designated person. The contract shall so provide and shall be initialed by the customer.

(f) If a demand for refund is denied by a licensee, and if the denial is found to have been in bad faith, a court of appropriate jurisdiction, as well as a small claims court, shall be empowered to award damages to the plaintiff in an amount not to exceed two hundred dollars (\$200) in addition to actual damages sustained by the plaintiff. If the licensee refuses or is unable to pay the damages awarded by the court, the award may be satisfied out of the security required under Section 10167.7.

10167.11. It shall be a violation of this article for any licensee or any employee or agent of a licensee to refer a property to a prospective tenant knowing or having reason to know that:

(a) The property does not exist or is unavailable for tenancy.

(b) The property has been described or advertised by or on behalf of the licensee in a false, misleading, or deceptive manner.

(c) The licensee has not confirmed the availability of the property for tenancy during the four-day period immediately preceding dissemination of the listing information. However, it shall not be a violation to refer a property to a prospective tenant during a period of from five to seven days after the most recent confirmation of the

availability of the property for rental if the licensee has made a good faith effort to confirm availability within the stated four-day period, and if the most recent date of confirmation of availability is set forth in the referral.

(d) The licensee has not obtained written or oral permission to list the property from the property owner, manager, or other authorized agent.

10167.12. (a) The commissioner may suspend or revoke the license of a prepaid rental listing service or the license of the service to operate at one or more locations for either of the following:

(1) A violation of a provision of this article by a licensee or by an employee or agent, including a designated agent, of the licensee.

(2) A conviction of a licensee, or of an officer, director or owner of 25 percent or more of the shares of a corporate licensee for a crime which is substantially related to the qualifications, functions, or duties of a prepaid rental listing service licensee.

(b) For the purpose of determining whether grounds exist for suspending or revoking the license of a prepaid rental listing service the commissioner shall hold a hearing 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.

10167.13. A prepaid rental listing service license issued by the department shall be for a period of two years. An application and fee for renewal filed with the department before midnight of the last day of the period for which a previous license was issued entitles the licensee to continue operating at all locations specified in the previous license for which a renewal fee is paid.

10167.14. Whenever any person has engaged or threatens to engage in any acts or practices which constitute, or will constitute a violation of a provision of the article, the superior court of the county in which the acts or practices have taken place, or are about to take place, on complaint of the commissioner, the attorney general, district attorney, or city attorney, may enjoin such acts or practices by appropriate order. The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that no undertaking shall be required.

10167.15. Any person, including an officer, director, or employee of a corporation who willfully violates any provision of this article is guilty of a misdemeanor.

10167.16. A person or corporation licensed pursuant to this article and not engaging in acts for which a real estate license is required under Article 1 (commencing with Section 10130) of Chapter 3 of Part 1 of Division 4, shall be subject, in addition to the provisions of this article, to the provisions of Chapter 1 (commencing with Section 10000) and Chapter 2 (commencing with Section 10050) of Part 1 of Division 4, and to Sections 10450, 10452, 10453, and 10454.

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 provisions of Sections 10167.2 and 10167.7 shall become operative 90 days after 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:

Thousands of California families and individuals who are using prepaid rental listing services presently have no adequate protection from, or remedy to, the unfair or sharp tactics employed by some members of this unregulated industry. It is therefore necessary that the provisions contained in this act take effect immediately.

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#### CHAPTER 1052

An act to amend Sections 2003, 7924, 8308, 8830.5, and 8837 of, to add Sections 12002.5 and 12002.7 to, and to add and repeal Sections 12002.6 and 12002.8 of, the Fish and Game Code, relating to fish.

[Approved by Governor September 25, 1980. Filed with  
Secretary of State September 26, 1980.]

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

SECTION 1. Section 2003 of the Fish and Game Code is amended to read:

2003. (a) It is unlawful to offer any prize or other inducement as a reward for the taking of any game birds, mammals, fish, reptiles, or amphibia, excepting trout and striped bass, and excepting black bass pursuant to a permit issued under subdivision (b).

(b) The department, if it finds there would be no detriment to the resource, may, subject to such regulations as the commission shall prescribe, issue to any person a permit authorizing such person to offer a prize or other inducement as a reward for the taking of black bass. The application for any such permit shall be accompanied by a fee in such amount as shall be determined by the department as necessary to cover the reasonable administrative costs incurred by the department in issuing such permit.

(c) This section does not prohibit any person or nonprofit corporation from giving awards of not to exceed two hundred dollars (\$200) in value for each recipient, and does not apply to any person or nonprofit organization conducting what are generally known as

frog-jumping contests or fish contests conducted in waters of the Pacific Ocean.

SEC. 2. Section 7924 of the Fish and Game Code is amended to read:

7924. Licenses issued under this article are subject to forfeiture, suspension, or revocation for a violation of Section 7121 and for any offense for which a commercial fishing license may be forfeited, suspended, or revoked.

SEC. 3. Section 8308 of the Fish and Game Code is amended to read:

8308. It is unlawful for a holder of a permit which authorizes the taking of abalone for commercial purposes to possess or control more than 20 dozen black abalone at any time, except that more than 20 dozen may be possessed or controlled when being transported on land.

SEC. 4. Section 8830.5 of the Fish and Game Code is amended to read:

8830.5. Midwater trawls may be used under such rules and regulations as the commission may prescribe, including the setting of a minimum mesh size. However, the commission may not set a minimum mesh size during the time that a groundfish management plan adopted by the Pacific Fishery Management Council is in effect.

SEC. 5. Section 8837 of the Fish and Game Code is amended to read:

8837. It is unlawful to use or possess any trawl net which includes any bag or cod-end or modification thereof, other than a bag or cod-end of a single layer of webbing, except as authorized by Sections 8838 to 8841, inclusive.

SEC. 6. Section 12002.5 is added to the Fish and Game Code, to read:

12002.5. Notwithstanding Sections 12000, 12001, and 12002 a certificate of boat registration may be revoked or suspended by the commission, when requested by the department, for a period not to exceed one year, upon conviction of the registrant or person acting under his direct control, for a violation of Section 7121 or the regulations adopted pursuant thereto, if the violation in question involved a vessel licensed pursuant to Section 7920.

Notwithstanding Sections 12000, 12001, and 12002, a certificate of boat registration of a vessel licensed pursuant to Section 7920 may be revoked or suspended by the commission, when requested by the department, for a period not to exceed one year, upon conviction of any other person for a violation of Section 7121, if the fish or amphibia involved in the violation were taken from the vessel and that person committed a prior violation of Section 7121 on the vessel.

However, the certificate shall not be revoked for a violation which is unrelated to the boat for which the certificate of registration is to be revoked.

SEC. 7. Section 12002.6 is added to the Fish and Game Code, to read:

12002.6. Notwithstanding Sections 12000, 12001, and 12002 a certificate of boat registration may be revoked or suspended by the commission, when requested by the department, for a period not to exceed one year, upon the second conviction in three years of the registrant, or his agent, servant, employee, or person acting under his direction or control, for a violation of any of the following provisions or regulations adopted pursuant thereto:

(1) Article 2 (commencing with Section 8150), Article 3 (commencing with Section 8180), Article 4 (commencing with Section 8210), Article 5 (commencing with Section 8250), Article 6 (commencing with Section 8275), Article 7 (commencing with Section 8300), Article 9 (commencing with Section 8370), Article 13 (commencing with Section 8495), and Article 15 (commencing with Section 8550) of Chapter 2 of Part 3 of Division 6.

(2) Article 1 (commencing with Section 8601), Article 2 (commencing with Section 8620), Article 4 (commencing with Section 8660), Article 5 (commencing with Section 8685), Article 6 (commencing with Section 8720), Article 7 (commencing with Section 8750), Article 8 (commencing with Section 8780), and Article 10 (commencing with Section 8830) of Chapter 3 of Part 3 of Division 6.

(3) Article 1 (commencing with Section 9000) of Chapter 4 of Part 3 of Division 6.

However, the certificate shall not be revoked unless both the first and second convictions are related to the boat for which the certificate of registration is to be revoked, and are for violations which occurred when the person convicted was the registrant or the registrant's agent, servant, employee, or acting under his direction or control.

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. Section 12002.7 is added to the Fish and Game Code, to read:

12002.7. Notwithstanding Sections 12000, 12001, and 12002, the commercial fishing license of the master of a vessel may be revoked or suspended by the commission, when requested by the department, for a period not to exceed one year, upon conviction of the master or his agent, servant, employee, or person acting under his direction or control, for a violation of Section 7121 or the regulations adopted pursuant thereto, if the fish in question were taken from a vessel licensed pursuant to Section 7920.

However, a master's license shall not be revoked for the conviction of a violation occurring when the person convicted was not acting as the master's agent, servant, employee, or acting under his direction or control.

The master of a vessel is the person on board the vessel who is in charge of the vessel.

SEC. 9. Section 12002.8 is added to the Fish and Game Code, to

read:

12002.8. Notwithstanding Sections 12000, 12001, and 12002, the commercial fishing license of the master of a vessel may be revoked or suspended by the commission, when requested by the department, for a period not to exceed one year, upon the second conviction in three years of the master or his agent, servant, employee, or person acting under his direction or control, for a violation of any of the following provisions or regulations adopted pursuant thereto:

(1) Article 2 (commencing with Section 8150), Article 3 (commencing with Section 8180), Article 4 (commencing with Section 8210), Article 5 (commencing with Section 8250), Article 6 (commencing with Section 8275), Article 7 (commencing with Section 8300), Article 9 (commencing with Section 8370), Article 13 (commencing with Section 8495), and Article 15 (commencing with Section 8550) of Chapter 2 of Part 3 of Division 6.

(2) Article 1 (commencing with Section 8601), Article 2 (commencing with Section 8620), Article 4 (commencing with Section 8660), Article 5 (commencing with Section 8685), Article 6 (commencing with Section 8720), Article 7 (commencing with Section 8750), Article 8 (commencing with Section 8780), and Article 10 (commencing with Section 8830) of Chapter 3 of Part 3 of Division 6.

(3) Article 1 (commencing with Section 9000) of Chapter 4 of Part 3 of Division 6.

However, a master's license shall not be revoked unless both the first and second convictions are for a violation by the master or a violation occurring when the person convicted was acting as the master's agent, servant, employee, or acting under his direction or control.

The master of a vessel is the person on board the vessel who is in charge of the vessel.

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. Sections 6 to 9, inclusive, of this act shall become operative on January 1, 1982.

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## CHAPTER 1053

An act to add Sections 22 and 23 to the Drainage District Act of 1885 (Chapter 158 of the Statutes of 1885), relating to drainage districts.

[Approved by Governor September 25, 1980. Filed with  
Secretary of State September 26, 1980 ]

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

SECTION 1. Section 22 is added to the Drainage District Act of 1885 (Chapter 158 of the Statutes of 1885), to read:

Sec. 22. In addition to levying an ad valorem tax or ad valorem assessment for drainage services, the board of trustees may levy an assessment, on each parcel of real property within the district, on the basis of estimated benefit sufficient to cover the cost not otherwise offset by other available revenue of providing drainage services within the district, except that the board shall not impose an assessment upon a federal or state governmental agency or another local agency.

SEC. 2. Section 23 is added to the Drainage District Act of 1885 (Chapter 158 of the Statutes of 1885), to read:

Sec. 23. (a) The assessments authorized pursuant to Section 22 shall be levied and collected at the same time, in the same manner, and subject to the same penalties as the general tax levy for county purposes, except that, if for the first year such assessment is levied the real property on which the assessment is levied 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 county taxes would become delinquent, the confirmed assessment shall not result in a lien against the real property but shall be transferred to the unsecured roll.

(b) The county may collect an additional amount necessary to pay the expenses of the county for such collection.

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 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.

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## CHAPTER 1054

An act to amend Sections 14664 and 14670 of, and to add Section 12804.5 to, the Government Code, and to authorize the disposition of specified state property, relating to state surplus property.

[Approved by Governor September 25, 1980. Filed with  
Secretary of State September 26, 1980 ]

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

SECTION 1. Section 12804.5 is added to the Government Code, to read:

12804.5. The Secretary of the State and Consumer Services

Agency is hereby authorized to develop programs for technical and fiscal assistance to facilitate nonprofit, self-help community vegetable gardens and related supporting activities.

SEC. 1.5. Section 14664 of the Government Code is amended to read:

14664. The director may execute grants to real property belonging to the state in the name and upon behalf of the state, whenever the sale or exchange of real property is authorized or contemplated by law, if no other state agency is specifically authorized and directed to execute the grants. The director may also execute deeds or such other instruments as are necessary to correct erroneous descriptions on deeds by which the state acquired title.

SEC. 2. Section 14670 of the Government Code is amended to read:

14670. With the consent of the state agency concerned, the director may:

(a) Let for a period of not to exceed five years, any real or personal property which belongs to the state, the letting of which is not expressly prohibited by law, if he deems such letting is in the best interest of the state.

(b) Sublet any real or personal property leased by the state, the subletting of which is not expressly prohibited by law, if he deems such subletting is in the best interest of the state.

(c) Let for a period not to exceed five years, and at less than fair market rental, any real property of the state to any public agency for use as nonprofit, self-help community vegetable gardens and related supporting activities, provided:

(1) Parcels let for such purposes shall not exceed five acres.

(2) Two or more contiguous parcels shall not be let for such purposes.

(3) Parcels shall be let subject to applicable local zoning ordinances.

The Legislature finds and declares that any leases let at less than fair market rental pursuant to subdivision (c) shall be of broad public benefit.

Any money received in connection with paragraph (a) of this section shall be deposited in the General Fund for appropriation as provided in Section 15863. Any expenditures in connection with such letting may be allocated from the appropriation pursuant to Section 15863.

All money received pursuant to paragraph (b) of this section shall be accounted for to the Controller at the close of each month and on order of the Controller be paid into the State Treasury and credited to the appropriation from which the cost of the lease was paid.

SEC. 3. The Director of General Services, with the approval of the State Public Works Board, is hereby authorized to sell, exchange, or lease for current market value or for any lesser consideration authorized by law, and upon such terms and conditions and with such reservations and exceptions as in his opinion may be for the best

interest of the state, all or any part of the following real property:

Parcel 1. Approximately 0.7 acre of land, being a portion of the Department of Motor Vehicles' property located on Fifth Street in the City of Davis, County of Yolo.

Parcel 2. Approximately 1 acre of land, being a portion of Napa State Hospital, located off Wild Horse Valley Road, easterly of the City of Napa in the County of Napa.

Parcel 3. Approximately 6.8 acres of land, being a portion of Agnews State Hospital to be used for the northerly extension of Zanker Road from Mauvais Lane in the City of San Jose.

Parcel 4. Approximately 1.86 acres of land, being a portion of Agnews State Hospital and known as Mauvais Lane in the City of San Jose, County of Santa Clara.

Parcel 5. Approximately 170 acres of land, being a portion of Camarillo State Hospital, on Lewis Road in the County of Ventura.

Parcel 6. Approximately 0.23 acre of land and improvements thereon, being the former workshop for the California Industries for the Blind, located at 1344 "F" Street in the City of San Diego, County of San Diego.

Parcel 7. Approximately 144.2 acres of land, being the site of the proposed Bratton Valley Conservation Camp, on Honey Springs Road, approximately 30 miles easterly of the City of San Diego, County of San Diego.

SEC. 4. The Director of General Services, with the approval of the State Public Works Board and the Director of Fish and Game, is hereby authorized to sell all or any part of approximately 1,092.5 acres of land being the site of the Madera Lake Recreation Area, located approximately 5 miles northeasterly of the City of Madera in the County of Madera, but only for current market value and upon such terms, conditions and with such reservations and exceptions as in his opinion may be for the best interest of the state. The Madera Irrigation District shall be offered the first right to acquire, for current market value, the property or any interest therein, in accordance with an agreement which must be entered into by the Department of General Services and the Madera Irrigation District prior to April 30, 1981.

SEC. 4.3. The Director of General Services, with the approval of the State Public Works Board and the Director of Parks and Recreation, is hereby authorized to exchange upon such terms, conditions, and with such reservations and exceptions as in his opinion may be for the best interest of the state, approximately 3,700 acres of land, known as the Simi Valley State Recreation Area, located in the Moorpark Sphere of Interest northwest of Simi Valley, in the County of Ventura near the easterly border.

SEC. 4.5. The Director of General Services, with the approval of the State Public Works Board and the Director of Parks and Recreation, is hereby authorized to exchange for current market value and upon such terms, conditions, and with such reservations and exceptions as in his opinion may be for the best interest of the

state, approximately 1.091 acres of land, being a portion of South Carlsbad State Beach, located off Highway 1 in the County of San Diego.

SEC. 5. Notice of every public auction or bid opening shall be posted on the property to be sold and shall be published in a newspaper of general circulation published in the county in which the real property to be sold is situated. All parcels in each section of this act shall be exempt from the provisions of Section 21000 to 21174, inclusive, of the Public Resources Code.

SEC. 6. Any cost or expense incurred in the disposition of any parcels may be reimbursed from the proceeds of such disposition.

SEC. 7. Subject to Section 6 of this act, any moneys received from the disposition of any parcel shall be paid into the General Fund, except that any money received from the disposition of Parcel 1 as described in Section 3 of this act shall be paid into the State Transportation Fund. Any money received from the disposition of the parcel in Section 4 of this act shall be paid into the Wildlife Restoration Fund. Any money received from the disposition of the parcel in Section 4.5 of this act shall be paid into the State Parks and Recreation Fund.

SEC. 8. As to any property sold pursuant to this act containing 10 acres or less, the Director of General Services shall except and reserve to the state all mineral deposits, as defined in Section 6407 of the Public Resources Code, below a depth of 500 feet, without surface rights of entry. As to any such property sold containing more than 10 acres, the Director of General Services shall except and reserve to the state all mineral deposits, as defined in Section 6407 of the Public Resources Code, together with the right to prospect for, mine, and remove such deposits. Such rights to prospect for, mine, and remove may be limited to those areas of the property conveyed which the director determines to be reasonably necessary for the removal of such resources and deposits.

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## CHAPTER 1055

An act to amend Section 3227 of, to add and repeal Sections 25138 and 25139 of, and to add and repeal Chapter 4.5 (commencing with Section 25350) of Division 15 of, the Public Resources Code, relating to petroleum products, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1980. Filed with  
Secretary of State September 26, 1980.]

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

**SECTION 1.** Section 3227 of the Public Resources Code is amended to read:

**3227.** The owner of any well producing or capable of producing oil or gas shall file with the district deputy, on or before the 30th day of each month, for the last preceding calendar month, a statement, in such form as the supervisor may designate, showing:

(a) The amount of oil and gas produced from each well during the period indicated, together with the gravity of the oil, the amount of water produced from each well, estimated in accordance with methods approved by the supervisor, and the number of days during which fluid was produced from each well.

(b) The number of wells drilling, producing, or idle, owned or operated by such person.

(c) What disposition was made of the gas produced from each well, including the names of persons, if any, to whom the gas was delivered, and such other information regarding the gas and the disposition thereof as the supervisor may require.

Upon request and satisfactory showing, a longer interval may be fixed by the supervisor for such reports in the case of any specific owner or operator.

(d) It is the duty of the supervisor to compile from such statements and to publish monthly statistics, within 60 days of the end of each calendar month, showing the amount of oil and gas produced in the state by producers, oilfields and pools, together with the number of wells drilling, number of wells producing or idle, all separately stated as to producers, oilfields, and pools, with such other information as the supervisor deems proper.

(e) As used in this section, "pool" means an underground reservoir containing a common accumulation of crude petroleum oil or natural gas or both. Each zone of a general structure which is separated from any other zone in the structure is a separate pool.

(f) What disposition was made of the water produced from each well, including designations of injection or disposal wells and such other information regarding the water and the disposition thereof as the supervisor may require.

**SEC. 2.** Section 25138 is added to the Public Resources Code, to read:

**25138.** "Major oil transporter" means any person who transports oil or other petroleum products in amounts determined by the commission as having a major effect on energy supplies.

This section shall remain in effect only until January 1, 1985, and as of that date is repealed, unless a later enacted statute which is chaptered before January 1, 1985, deletes or extends such date.

**SEC. 3.** Section 25139 is added to the Public Resources Code, to read:

**25139.** "Major oil storer" means any person who stores oil or other petroleum products in amounts of not less than 20,000 barrels per month. "Major oil storer" shall not include any oil producer who produces less than 30,000 barrels per month.

This section shall remain in effect only until January 1, 1985, and as of that date is repealed, unless a later enacted statute which is chaptered before January 1, 1985, deletes or extends such date.

SEC. 4. Chapter 4.5 (commencing with Section 25350) is added to Division 15 of the Public Resources Code, to read:

#### CHAPTER 4.5. PETROLEUM SUPPLY AND PRICING

25350. (a) The Legislature finds and declares that the petroleum industry is an essential element of the California economy and is therefore of vital importance to the health and welfare of all Californians.

(b) The Legislature further finds and declares that a complete and thorough understanding of the operations of the petroleum industry is required by state government at all times to enable it to respond to possible shortages, oversupplies, or other disruptions.

(c) The Legislature further finds and declares that information and data concerning all aspects of the petroleum industry, including, but not limited to, crude oil production, supplies, refining, product output, prices, distribution, demand, and investment choices and decisions are essential for the state to develop and administer energy policies which are in the interest of the state's economy and the public's well-being.

25352. This chapter shall be known and may be cited as the Petroleum Industry Information Reporting Act of 1980.

25354. (a) Beginning the first month after the effective date of this chapter and each month thereafter, each refiner and major marketer shall submit information to the commission in such form and extent as the commission prescribes pursuant to this section. Such information shall be submitted within 30 days after the end of each monthly reporting period and shall include the following:

(1) Refiners shall report, for each of their refineries, feedstock inputs, origin of petroleum receipts, refinery outputs, refinery stocks, and finished product supply and distribution.

(2) Major marketers shall report on petroleum and petroleum product receipts, inventories, and distributions.

(b) Beginning the first month after the effective date of this chapter and annually thereafter, each major oil producer, refiner, marketer, oil transporter, and oil storer shall submit information to the commission in such form and extent as the commission prescribes pursuant to this section. Such information shall be submitted within 30 days after the end of each reporting period, and shall include the following:

(1) Major oil transporters shall report on petroleum by reporting the capacities of each major transportation system, the amount transported by each system, and inventories thereof. The commission may prescribe rules and regulations which exclude pipeline and transportation modes operated entirely on property owned by major oil transporters from the reporting requirements of

this section where such data or information is not needed to fulfill the purposes of this chapter. The provision of such information shall not be construed to increase or decrease any authority the Public Utilities Commission may otherwise have.

(2) Major oil storers shall report on storage capacity, inventories, receipts and distributions, and methods of transportation of receipts and distributions.

(3) Major oil producers shall report on facility capacity, monthly inventories, and amount and methods of transportation of shipments and exports.

(4) Refiners shall report on facility capacity, and utilization and method of transportation of refinery receipts and distributions.

(5) Major oil marketers shall report on facility capacity and methods of transportation of receipts and distributions.

(c) Each person required to report pursuant to subdivision (a) shall submit a projection each month of the information to be submitted pursuant to subdivision (a) for the quarter following the month in which the information is submitted to the commission.

(d) In addition to the data required under subdivision (a), each integrated oil refiner (produces, refines, transports, and markets in interstate commerce) who supplies more than 500 branded retail outlets in California shall submit to the commission an annual industry forecast for Petroleum Administration for Defense, District V (covering Arizona, Nevada, Washington, Oregon, California, Alaska, and Hawaii). The forecast shall include the information to be submitted under subdivision (a), and shall be submitted by March 15 of each year. Beginning January 1, 1983, such forecast shall be a projection of the supply and demand for petroleum and petroleum products for California.

(e) The commission may by order or regulation modify the reporting period as to any individual item of information setting forth in the order or regulation its reason for so doing.

(f) The commission may request additional information as necessary to perform its responsibilities under this chapter.

(g) Any person required to submit information or data under this chapter may, in lieu thereof, submit a report made to any other governmental agency, provided, that:

(1) The alternate report or reports contain all of the information or data required by specific request under this chapter.

(2) The person clearly identifies the specific request to which the alternate report is responsive.

25355. Each major oil producer, refiner, and major marketer of petroleum products doing business within this state shall not be required to provide information on petroleum and petroleum products pursuant to Section 25320 during the period that this chapter is in effect if they are providing information pursuant to this chapter.

25356. (a) The commission shall, with its own staff and other support staff with expertise and experience in, or with, the

petroleum industry, gather, analyze, and interpret the information submitted to it pursuant to Section 25354 and other information relating to the supply and price of petroleum products, with particular emphasis on motor vehicle fuels, including, but not limited to, all of the following:

(1) The nature, cause, and extent of any petroleum or petroleum products shortage or condition affecting supply.

(2) The economic and environmental impacts of any petroleum and petroleum product shortage or condition affecting supply.

(3) Petroleum or petroleum product demand and supply forecasting methodologies utilized by the petroleum industry in California.

(4) The prices, with particular emphasis on retail motor fuel prices, and any significant changes in prices charged by the petroleum industry for petroleum or petroleum products sold in California and the reasons for such changes.

(5) The profits, both before and after taxes, of the industry as a whole and of major firms within it, including a comparison with other major industry groups and major firms within them as to profits, return on equity and capital, and price-earnings ratio.

(6) The emerging trends relating to supply, demand, and conservation of petroleum and petroleum products.

(7) The nature and extent of efforts of the petroleum industry to expand refinery capacity and to make acquisitions of additional supplies of petroleum and petroleum products, including activities relative to the exploration, development, and extraction of resources within the state.

(8) The development of a petroleum and petroleum products information system in a manner which will enable the state to take action to meet and mitigate any petroleum or petroleum products shortage or condition affecting supply.

(b) The commission shall, with the assistance and cooperation of the State Board of Equalization, conduct random or periodic audits and inspections of retail gasoline service stations to determine whether they are unnecessarily withholding supplies from the market or are violating applicable pricing regulations. The commission shall cooperate with other state and federal agencies to ensure that any audit or inspection conducted by the commission is not duplicative of the data received by any of their audits or inspections which is available to the commission.

(c) The commission shall analyze the impacts of state and federal policies and regulations upon the supply and pricing of petroleum products.

25357. The commission shall obtain and analyze monthly production reports prepared by the State Oil and Gas Supervisor pursuant to Section 3227.

25358. (a) Within 70 days after the end of the calendar quarter following the effective date of this chapter, and, thereafter, within 70 days after the end of each preceding quarter of each calendar

year, the commission shall publish and submit to the Governor and the Legislature a summary, an analysis, and an interpretation of the information submitted to it pursuant to Section 25354 and information reviewed pursuant to Section 25357. This report shall be separate from the report submitted pursuant to Section 25322. Any person may submit comments in writing regarding the accuracy or sufficiency of the information submitted.

(b) Annually, no later than April 15 of each year, the commission shall publish and submit to the Governor and the Legislature a report describing emerging trends relating to the supply, demand, and pricing of petroleum and petroleum products, investments in production and refining, and shall include specific recommendations for legislative or administrative action regarding methods to increase conservation, reduce or stabilize demand, increase production and productivity, and other changes in government laws, regulations, or policies.

(c) The commission may use reasonable means necessary and available to it to seek and obtain any facts, figures, and other information from any source for the purpose of preparing and providing reports to the Governor and the Legislature. The commission shall specifically include in such reports its analysis of any unsuccessful attempts in obtaining information from potential sources, including the lack of cooperation or refusal to provide information.

(d) Whenever the commission fails to provide any report required pursuant to this section within the specified time, it shall provide to all members of the Legislature, within five days of such specified time, a detailed written explanation of the cause of any such delay.

25362. (a) The commission shall notify those persons who have failed to timely provide the information specified in Section 25354. If, within five days after being notified of the failure to provide the specified information, the person fails to supply the specified information, the person shall be subject to a civil penalty of not less than five hundred dollars (\$500) nor more than two thousand dollars (\$2,000) per day for each day the submission of information is refused or delayed, unless the person has timely filed objections with the commission regarding the information and the commission has not yet held a hearing on the matter, or the commission has held a hearing and the person has properly submitted the issue to a court of competent jurisdiction for review.

(b) Any person who willfully makes any false statement, representation, or certification in any record, report, plan, or other document filed with the commission shall be subject to a civil penalty not to exceed two thousand dollars (\$2,000).

(c) For the purposes of this section, the term "person" shall mean, in addition to the definition contained in Section 25116, any responsible corporate officer.

25364. (a) Any person required to present information or data to

the commission pursuant to Sections 25354 and 25360 may request that specific information or data be held in confidence.

(b) Information presented to the commission pursuant to this chapter shall be held in confidence by the commission or aggregated to the extent necessary to assure confidentiality if public disclosure of the specific information or data would result in unfair competitive disadvantage to the person supplying such information.

(c) Whenever the commission receives a request to publicly disclose unaggregated information or data, or otherwise proposes to publicly disclose information or data submitted pursuant to this chapter, notice of the request or proposal shall be provided to the person submitting the information. Such notice shall indicate the form in which the information is to be released. Upon receipt of notice, the person submitting the information shall have 10 days in which to respond to the notice to justify the claim of confidentiality on each specific item of data or information covered by the notice on the basis that public disclosure of the specific information would result in unfair competitive disadvantage to the person supplying such information.

The commission shall consider the respondent's submittal in determining whether to publicly disclose the information or data submitted to it to which a claim of confidentiality is made. The commission shall issue a written decision which sets forth its reasons for making the determination whether each item of information or data for which a claim of confidentiality is made shall remain confidential or shall be publicly disclosed.

(d) The commission shall not make public disclosure of information or data submitted to it pursuant to this chapter within 10 days after the commission has issued its written decision required in this section.

(e) No data or information submitted to the commission shall be deemed confidential if the person submitting such information or data has made it public.

25366. Any confidential information pertinent to the responsibilities of the commission specified in this division which is obtained by another state agency shall be available to the commission and shall be treated in a confidential manner.

25368. This chapter shall remain in effect only until January 1, 1985, and as of that date is repealed, unless a later enacted statute which is chaptered before January 1, 1985, deletes or extends such date.

SEC. 5. The sum of one hundred fifty thousand dollars (\$150,000) is hereby appropriated from the State Energy Resources Conservation and Development Special Account in the General Fund to the State Energy Resources Conservation and Development Commission to carry out the purposes of this act.

SEC. 6. 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. 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 that the State Energy Resources Conservation and Development Commission can begin to supply data necessary for the Governor and the Legislature to deal with the current crisis in motor vehicle fuel supplies and prices, it is necessary that this act take effect immediately.

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#### CHAPTER 1056

An act to add Section 68043.5 to the Government Code, relating to litter, and making an appropriation therefor. *and*

[Approved by Governor September 25, 1980 Filed with  
Secretary of State September 26, 1980 ]

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

SECTION 1. Section 68043.5 is added to the Government Code, to read:

68043.5. Notwithstanding the definition of litter specified in Section 68013, funds allocated pursuant to Section 68043 may be expended, upon approval of the board, for the cleanup and removal of aesthetic pollution by paint or other means.

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#### CHAPTER 1057

An act to amend Section 39250 of, and to add Section 39250.7 to, the Education Code, relating to school facilities.

[Approved by Governor September 25, 1980 Filed with  
Secretary of State September 26, 1980.]

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

SECTION 1. Section 39250 of the Education Code is amended to read:

39250. The governing board of a school district may:

(a) Lease buildings and other facilities such as administrative offices, warehouses, athletic facilities, outdoor assembly facilities, auditoriums, quarters for adult education, transportation facilities,

and communication facilities, for a period of not to exceed 12 years.

(b) Lease property from the federal government, the state, or any county, city and county, city, or district for the purpose of constructing school buildings and facilities thereon.

Except as otherwise provided, any building leased for a total time in excess of three years, or under a lease-purchase agreement, shall be deemed the construction or alteration of a school building, as those terms are used in Article 3 (commencing with Section 39140) of this chapter. A building or facility used by a school district under a lease or a lease-purchase agreement into which neither pupils nor teachers are required to enter and which would be excluded from the meaning of "school building" in Section 39214 shall not be considered to be a "school building" within the meaning of Section 39141. The governing board of a school district may request and obtain from the State Allocation Board authority for use of any such building not meeting the structural standards prescribed by Article 3 (commencing with Section 39140) of this chapter for an additional three years upon presentation of satisfactory evidence to the State Allocation Board that the district is proceeding in a timely manner with a construction program that will eliminate the need for the leased facilities.

SEC. 2. Section 39250.7 is added to the Education Code, to read:

39250.7. Notwithstanding any other provision of law to the contrary, the governing board of a school district whose average daily attendance is 400,000, or more, may lease buildings and other facilities, such as administrative offices, warehouses, athletic facilities, outdoor assembly facilities, auditoriums, quarters for adult education, transportation facilities, and communication facilities, for a period of not to exceed 16 years. However, if such facilities are used for programs which are fully or partially funded by other than state or district sources, the facilities may be leased for the duration of the funding. The governing board may also lease for any amount of time health facilities which: (1) are owned by the parent-teachers' association or other similar type organization; (2) are utilized and operated for other than educational services by the school district in which such facility is located; and (3) are for the benefit of those pupils who are brought to the facility by their parents for health services.

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## CHAPTER 1058

An act to amend Sections 21140 and 21140.1 of the Business and Professions Code, relating to petroleum products.

[Approved by Governor September 25, 1980 Filed with  
Secretary of State September 26, 1980 ]

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

SECTION 1. Section 21140 of the Business and Professions Code is amended to read:

21140. As used in this chapter:

(a) A "franchise" is any contractual or written agreement between a petroleum corporation or distributor and a gasoline dealer under which the gasoline dealer is granted the right to use a trademark, trade name, service mark, or other identifying symbol or name owned by the corporation or distributor, or any agreement between a petroleum corporation or distributor and a gasoline dealer under which the gasoline dealer is granted the right to occupy premises owned, leased, or controlled by the corporation or distributor, for the purposes of engaging in the retail sale of petroleum and other products of the corporation and distributor.

(b) A "franchisee" is any person who, pursuant to a franchise, receives gasoline, diesel fuel, or gasohol from the franchisor and who sells such products at retail.

(c) A "franchisor" is any person or corporation which refines, processes, or distributes gasoline, diesel fuel, or gasohol.

SEC. 2. Section 21140.1 of the Business and Professions Code is amended to read:

21140.1. Notwithstanding the terms of any franchise, a retail gasoline station owned or operated by a franchisee shall not be precluded from purchasing gasoline, diesel fuel, or gasohol from any available source if the franchisor is unable or refuses to supply the franchisee with such products.

Failure to deliver contracted, agreed upon, or requested quantities of gasoline, diesel fuel, or gasohol within 72 hours of such specified contract time, agreement, or request shall constitute an inability or refusal to supply a franchisee. Requests for deliveries of gasoline, diesel fuel, or gasohol may be telephoned to the franchisor, except that when the franchisee intends to seek gasoline, diesel fuel, or gasohol from another supplier pursuant to Section 21140.1 should the franchisor be unable or refuse to supply him, a request for gasoline, diesel fuel, or gasohol must be made in writing to a franchisor at least 48 hours before desired delivery.

Once such notice has been given, and the franchisor has failed to deliver contracted, agreed upon, or requested quantities of gasoline, diesel fuel, or gasohol, no further written request shall be required from the franchisee until such time as the franchisor notifies the franchisee in writing that the franchisor is prepared to deliver contracted, agreed upon, or requested quantities of gasoline, diesel fuel, or gasohol.

Nondelivery of gasoline, diesel fuel, or gasohol by the franchisor due to accident, fire, theft or other similar acts shall not constitute an inability or refusal to supply the franchisee.

If the franchisee sells gasoline, diesel fuel, or gasohol supplied from a source other than the franchisor, the franchisee shall prominently

post a sign disclosing this fact to the public on each pump dispensing gasoline, diesel fuel, or gasohol purchased from other than the franchisor. The sign shall not be smaller than 8" x 10" with letters not less than three inches in height.

This provision shall not be construed to permit a franchisee to purchase more gasoline, diesel fuel, or gasohol than may be allowed by any federal statute or regulation.

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## CHAPTER 1059

An act to amend Sections 89 and 33300, of, and to amend the heading of Chapter 3 (commencing with Section 33300) of Part 20 of, the Education Code, and to amend Section 7530 of the Government Code, relating to education, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1980. Filed with  
Secretary of State September 26, 1980.]

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

SECTION 1. Section 89 of the Education Code is amended to read:

89. The word "department" whenever used in this code, unless the context otherwise requires, means the State Department of Education.

SEC. 2. The heading of Chapter 3 (commencing with Section 33300) of Part 20 of the Education Code is amended to read:

### CHAPTER 3. STATE DEPARTMENT OF EDUCATION

SEC. 3. Section 33300 of the Education Code is amended to read:

33300. There is in the state government a State Department of Education. Any reference to the Department of Education shall be deemed to be a reference to the State Department of Education, unless the context otherwise requires.

SEC. 4. Section 7530 of the Government Code is amended to read:

7530. All public agencies, public entities, districts, cities, counties, and cities and counties shall, when being identified by such entity for any purpose, be identified as a public agency, public entity, district, city, county, or city and county, whichever is appropriate.

The requirements of this section shall be deemed satisfied if the words "state," "public agency," "public entity," "district," "city," "county," or "city and county," whichever is appropriate, appears on all letterhead stationery of such public agency, public entity, district, city, county, or city and county, and on all identification cards used to identify a representative of a public agency, public entity, district,

city, county, or city and county; provided, that this chapter is not intended to require the reprinting of letterhead stationery or identification cards and any public agency, public entity, district, city, county, or city and county shall have one year from the effective date of this chapter to use up old letterhead stationery and identification cards. The use by a school district of the name "\_\_\_\_\_ City Schools" shall satisfy the requirements of this section.

Notwithstanding any other provision of law, a written application for leave to present a claim pursuant to Section 911.4 shall be granted when it can be shown that the claimant acted with reasonable diligence in pursuing the claim and reasonably believed that the responsible entity was not a public agency by reason of its representations.

SEC. 5. Notwithstanding any other provision of law to the contrary, the Coachella Valley Unified School District may establish a high school to serve pupils who would otherwise be required to travel in excess of 20 miles to attend high school. In the event that such a newly-established high school serves less than 301 units of average daily attendance, the revenue limit computed for the district pursuant to Section 42238 of the Education Code shall be adjusted as follows:

(a) Compute foundation program amount pursuant to subdivision (a) of Section 41711 of the Education Code for the 1978-79 fiscal year.

(b) Compute a foundation program amount for the same number of units of average daily attendance pursuant to subdivision (b) of Section 41711 of the Education Code for the 1978-79 fiscal year.

(c) Subtract the amount computed in subdivision (b) from the amount computed in subdivision (a) and multiply that amount by 1.165.

(d) The amount computed pursuant to subdivision (c) shall be added to the revenue limit computed for the district pursuant to Section 42238 of the Education Code for the 1980-81 fiscal year and such amount shall be included in the computation of revenue limits for the district in all subsequent fiscal years.

SEC. 6. Due to the unique circumstances involving the need for funds to eliminate a dangerous travel situation in the school district affected by Section 5 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. 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 to clarify the term used in the Education Code for the State Department of Education at the earliest possible time, in order to permit the Coachella Valley Unified School District to establish a necessary small high school at the earliest possible time, and in order to permit school district governing boards to continue without interruption the practice of using the term "city schools" as

prescribed by this act, and so facilitate the orderly administration of the school districts affected, it is essential that this act take effect immediately.

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CHAPTER 1060

An act to repeal and add Section 31752 of the Food and Agricultural Code, relating to cats.

[Approved by Governor September 25, 1980. Filed with  
Secretary of State September 26, 1980.]

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

SECTION 1. Section 31752 of the Food and Agricultural Code is repealed.

SEC. 2. Section 31752 is added to the Food and Agricultural Code, to read:

31752. No stray cat which has been impounded by a public pound, society for the prevention of cruelty to animals shelter, or humane shelter shall be killed before 72 hours have elapsed from the time of the capture of the stray cat.

This section shall not apply to cats which are severely injured or seriously ill, or to newborn cats unable to feed themselves.

SEC. 3. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these 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.

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CHAPTER 1061

An act to add and repeal Section 5328.01 of the Welfare and Institutions Code, relating to mental and developmental disabilities, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1980. Filed with  
Secretary of State September 26, 1980.]

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

SECTION 1. Section 5328.01 is added to the Welfare and Institutions Code, to read:

5328.01. Notwithstanding Section 5328, all information and

records made confidential under the first paragraph of Section 5328 shall also be disclosed to governmental law enforcement agencies investigating evidence of a crime as follows where the records relate to a patient who is confined or has been confined as a mentally disordered sex offender or pursuant to Section 1026 or 1368 of the Penal Code and the records are in the possession or under the control of a state medical facility:

(a) In accordance with the prior written consent of the patient;  
or

(b) If authorized by an appropriate order of a court of competent jurisdiction in the county where the records are located compelling a party to produce in court specified records and specifically describing the records being sought, granted after an application showing good cause therefor. In assessing good cause, the court shall do all of the following:

(1) Weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services.

(2) Determine that there is a reasonable likelihood that the records in question will disclose material information or evidence of substantial value in connection with the investigation or prosecution.

(3) Determine that the crime involves the causing of, or direct threatening of, the loss of life or serious bodily injury.

(4) In granting or denying a subpoena, the court shall state on the record the reasons for its decision and the facts which the court considered in making such a ruling.

(5) If a court grants an order permitting disclosure of such records, the court shall issue all orders necessary to protect, to the maximum extent possible, the patient's privacy and the privacy and confidentiality of the physician-patient relationship.

(6) Any records disclosed pursuant to the provisions of this subdivision and any copies thereof shall be returned to the facility at the completion of the investigation or prosecution unless they have been made a part of the court record.

(c) A governmental law enforcement agency applying for disclosure of patient records under this subdivision, may petition the court for an extraordinary order, upon a showing of good cause to believe that delay would seriously impede the investigation, which requires the ordered party to produce the records forthwith.

(d) Records obtained by a governmental law enforcement agency pursuant to this section shall not be disseminated to any other agency or person unless such dissemination relates to the criminal investigation for which such records were obtained by such governmental law enforcement agency. The willful dissemination of any record in violation of this paragraph shall constitute a misdemeanor.

(e) If any records obtained pursuant to this section are of a patient presently receiving treatment at the health care facility, the law enforcement agency shall only receive copies of the original records.

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 January 1, 1983, deletes or extends such date.

SEC. 2. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, 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 that governmental law enforcement agencies may receive confidential information and records obtained in the course of providing mental health or developmental disability services that are needed to protect any citizen and his or her family, it is necessary that this act take immediate effect.

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## CHAPTER 1062

An act to add Chapter 7.1 (commencing with Section 25620) and Chapter 7.7 (commencing with Section 25880) to Division 20 of the Health and Safety Code, relating to radiation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1980 Filed with  
Secretary of State September 26, 1980.]

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

SECTION 1. Chapter 7.1 (commencing with Section 25620) is added to Division 20 of the Health and Safety Code, to read:

### CHAPTER 7.1. RADIATION MONITORING DEVICES FOR NUCLEAR POWERPLANTS

25620. Each privately-owned and publicly-owned public utility operating a nuclear powerplant with a generating capacity of 50 megawatts or more shall establish a system of offsite radiation monitoring devices as specified by the Nuclear Regulatory Commission pursuant to Regulatory Guide 1.97 or related standards. The utility shall consult with the State Department of Health Services and the appropriate county emergency services agency regarding the type, number, and locations of the radiation monitoring devices. The consultation with the department and the appropriate county emergency services agency shall be completed prior to submitting a plan to the Nuclear Regulatory Commission

regarding the radiation monitoring devices.

25621. The information transmitted to the radiation monitoring displays in the technical support center or emergency operating facility of a nuclear powerplant shall be simultaneously transmitted to the Office of Emergency Services State Warning Center.

25622. The funds expended by privately-owned utilities complying with this chapter shall be allowed for ratemaking purposes by the Public Utilities Commission. Publicly-owned utilities shall include funds expended complying with this chapter in their rates.

25623. In no event shall a plant operator be required to spend more than one million dollars (\$1,000,000) in capital outlay for a nuclear powerplant site in complying with this chapter.

25624. Nothing in this chapter shall require powerplant modifications or the conduct of operations which may be in conflict with conditions of the license to operate issued by the Nuclear Regulatory Commission or with other activities authorized by the Nuclear Regulatory Commission, or which may be in conflict with regulations of the Environmental Protection Agency.

25624.5. Failure to comply with this chapter shall not constitute the basis for an action in a court of law or in an administrative proceeding to enjoin or prevent the operation or start-up of a nuclear facility.

SEC. 2. Chapter 7.7 (commencing with Section 25880) is added to Division 20 of the Health and Safety Code, to read:

#### CHAPTER 7.7. NUCLEAR POWERPLANT RADIATION

25880. It is the intent of the Legislature that in the event of a nuclear accident timely and effective communications between the operators of nuclear powerplants in California and those state and local officials charged with nuclear emergency response activities be assured.

25880.1. (a) Each privately-owned and publicly-owned public utility operating a nuclear powerplant with a generating capacity of 50 megawatts or more shall install an automated alert system which will activate alarms in the California State Warning Center of the Office of Emergency Services in a manner to be determined by the Office of Emergency Services in consultation with the State Department of Health Services and the appropriate county emergency services agency. This automated alert system shall duplicate the following alarms in the control rooms of each nuclear powerplant:

(1) Safety injection actuation (operation of the emergency core cooling system).

(2) High radiation alarm of the radioactive gas effluent stack monitor.

(b) The automated alert system shall be operative within 12 months of the effective date of this chapter.

(c) In no event shall the capital costs of complying with this section exceed two hundred thousand dollars (\$200,000) per nuclear powerplant. The operator of each nuclear powerplant shall be responsible for any maintenance or recurring charges. The funds expended by privately owned utilities under this section shall be allowed for ratemaking purposes by the Public Utilities Commission. Publicly owned public utilities shall include funds expended under this section in their rates.

(d) The automated alert system shall be operational whenever corresponding alarms in the control rooms of each nuclear powerplant are required to be operational under the terms of the operating license issued by the Nuclear Regulatory Commission, except for periods of time required for maintenance, repair, calibration, or testing.

(e) Nothing in this section shall require plant modifications or the conduct of operations which may be in conflict with conditions of a license to operate issued by the Nuclear Regulatory Commission or other activities authorized by the Nuclear Regulatory Commission.

(f) The Office of Emergency Services shall make provision for immediate notification of appropriate local officials upon activation of the automated alert system pursuant to this section.

25880.2. Nothing in this chapter shall relieve nuclear powerplant operators of their responsibilities to notify local authorities as otherwise provided by law.

25880.3. Failure to comply with any provision of this chapter shall not constitute the basis for an action in a court of law or administrative proceeding to enjoin or prevent the operation or start-up of a nuclear facility.

25880.4. If the Humboldt Bay Nuclear Generating Station is not in operation on the effective date of this section, the local emergency plan for it shall not be required to meet the revised emergency response plan requirements of Section 8610.5 of the Government Code until the Nuclear Regulatory Commission determines that the powerplant meets Nuclear Regulatory Commission seismic safety criteria, or until the Nuclear Regulatory Commission issues an order rescinding the restrictions imposed on the Humboldt Bay Nuclear Generating Station in its order of May 21, 1976.

In the event that the Nuclear Regulatory Commission determines that the Humboldt Bay Nuclear Generating Station meets Nuclear Regulatory Commission seismic safety standards, or issues an order rescinding the restrictions in its order of May 21, 1976, a draft county emergency plan meeting the requirements of Section 8610.5 of the Government Code shall be submitted to the Office of Emergency Services for review within 180 days of the determination or rescission. Within 90 days after submission of the draft county emergency plan, approval of a final plan shall be completed by the Office of Emergency Services.

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 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. 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 protect the public health and safety by ensuring that there is adequate monitoring of radiation levels in the event of a nuclear powerplant accident and to insure that appropriate state and local authorities are notified of possible nuclear accidents in a timely fashion, it is essential that this act take effect immediately.

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## CHAPTER 1063

An act to amend Section 11656.6 of the Insurance Code, and to amend Sections 216, 220, and 496 of, to repeal Section 239 of, and to repeal Article 3 (commencing with Section 1051) of Chapter 5 of Part 1 of Division 1 of, the Public Utilities Code, relating to warehousemen.

[Approved by Governor September 25, 1980. Filed with  
Secretary of State September 26, 1980 ]

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

SECTION 1. Section 11656.6 of the Insurance Code is amended to read:

11656.6. An insurer may issue a workers' compensation policy insuring an organization or association of employers as a group if such organization or association complies with the following conditions:

(a) Files with the commissioner or a licensed workers' compensation rating organization designated by him:

(1) A copy of its articles of incorporation and bylaws or its agreement of association and rules and regulations governing the conduct of its business, all certified by the custodian of the originals thereof;

(2) A statement setting forth its reasons for desiring insurance as a group;

(3) A statement certifying that at least 75 percent of its regular membership is engaged in a common trade or business, and an agreement that such percentage of membership will be maintained during such time as a group workers' compensation policy issued to such organization or association is in force;

(4) An agreement that only those members who are engaged in a common trade or business shall be named by the organization or association in any statement to the commissioner, a licensed workers'

compensation rating organization or insurer as eligible for insurance as a member of the group, and an agreement that it will immediately notify its insurer if any member of such organization fails to remain a member in good standing in accordance with the basic law, rules, and regulations of such organization or association;

(5) A statement in writing undertaking to establish and maintain a safety committee which, by education and otherwise, will seek to reduce the incidence and severity of accidents; and

(6) An agreement in writing duly executed guaranteeing that, if the insurer notifies the organization or association of the nonpayment of a premium by an insured member of the organization or association within 60 days after the premium was due, the organization or association will pay to the insurer the amount of any past due premium which does not exceed the amount of the dividends that are due to the organization or association or its members from the insurer. The organization or association shall promptly notify the insurer of the known insolvency of any member of the group plan, and shall request, upon learning of such insolvency, removal of the member from the group plan. A copy of the resolution of the governing board of such organization or association authorizing the execution of the guarantee agreement shall be filed with the commissioner or a licensed workers' compensation rating organization designated by him and with any insurer issuing a group policy.

(b) "Common trade or business," as used in this article, shall mean:

(1) In agricultural enterprises, operations in which the principal payroll of the employer develops under any combination of the classifications of the Manual of Rules, Classifications and Basic Rates of Workers' Compensation Insurance approved by the Insurance Commissioner as applicable to farms; nurserymen; cultivating or gardening of flowers; and classifications embracing such other operations as may be conducted by a nonprofit cooperative association composed of producer members and combinations of nonprofit cooperative agricultural marketing associations having a central organization composed of member associations.

(2) In the building and construction industry, operations in the construction or repair of commercial or residential buildings or in general engineering construction in which the principal payroll develops under any combination of the classifications applicable to such construction or repair as they appear in the Manual of Rules, Classifications and Basic Rates for Workers' Compensation Insurance approved by the Insurance Commissioner. Commercial buildings, as defined in this paragraph, shall mean any nonresidential buildings.

(3) In the transportation and warehousing industry, operations in which the principal payroll of the employer develops under any combination of the classifications of the Manual of Rules, Classifications and Basic Rates of Workers' Compensation Insurance approved by the Insurance Commissioner as applicable to for-hire

motor carriers subject to regulation by the Public Utilities Commission and warehousemen.

(4) In the timber and lumber industry, operations in which the principal payroll of the employer develops under any combination of the classifications of the Manual of Rules, Classification and Basic Rates of Workers' Compensation Insurance approved by the Insurance Commissioner as applicable to land clearing; logging or lumbering; log, chip, and lumber hauling; planing or molding mills; sawmills or shingle mills; veneer or veneer products manufacturing; box or box shooK manufacturing; cabinet works; door, door frame, or sash manufacturing and wood fiber preparation. However, no classification applicable to for-hire motor carriers under the provisions of paragraph (3) of this subdivision shall be included in any combination of classifications authorized by this paragraph.

(5) For public agencies providing industrial, domestic, or agricultural water service, operations in which the principal payroll of the employer develops under any combination of the classifications of the Manual of Rules, Classification and Basic Rates of Workers' Compensation Insurance approved by the Insurance Commissioner as applicable to irrigation, drainage, reclamation, or waterworks operations.

(6) For sheltered workshops and rehabilitation facilities licensed pursuant to Section 1191.5 of the Labor Code, operations in which the principal payroll of the employer develops under any combination of classifications of the Manual of Rules, Classification and Basic Rates of Workers' Compensation Insurance approved by the Insurance Commissioner.

(7) For all other enterprises, operations in which the principal payroll develops under a single manual classification.

(c) "Principal payroll," for the purpose of this section, means not less than 51 percent of the total payroll for the preceding policy year or, in the case of an employer who has no preceding full year's payroll, not less than 51 percent of his estimated annual payroll.

SEC. 2. 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, 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, 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, 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 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 cogeneration facility.

SEC. 2.5. 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, 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, 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, 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 producing 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. 3. Section 220 of the Public Utilities Code is amended to read:

220. "Freight forwarder" means any corporation or person who for compensation undertakes the collection and shipment of property of others, and as consignor or otherwise ships or arranges to ship the property via the line of any common carrier at the tariff rates of such carrier, or who receives such property as consignee thereof.

This section shall not apply to any agricultural or horticultural cooperative organization operating under and by virtue of the laws of this or any other state or the District of Columbia or under federal statute in the performance of its duties for its members, or the agents, individual or corporate, of such organization in the performance of their duties as agents.

This section shall not apply to the operation of a shipper, or a group or association of shippers, in consolidating or distributing freight for themselves or for the members thereof, on a nonprofit basis, for the purpose of securing the benefits of carload, truckload, or other volume rates, or to the operations of a shippers' agent, in consolidating or distributing pool cars, whose services and responsibilities to shippers in connection with such operations are confined to the terminal area in which such operations are performed.

SEC. 4. Section 239 of the Public Utilities Code is repealed.

SEC. 5. Section 496 of the Public Utilities Code is amended to read:

496. (a) For purposes of this section—

(1) The term "carrier" means any common carrier subject to regulation under this part.

(2) The term "antitrust laws" means the provisions of Chapter 2 (commencing with Section 16700) of Part 2 of Division 7 of the Business and Professions Code, relating to combinations in restraint of trade.

(b) Any carrier which is a party to an agreement between or among two or more carriers relating to rates, fares, classifications, divisions, allowances, or charges (including charges between carriers and compensation paid or received for the use of facilities and equipment), or rules and regulations pertaining thereto, or procedures for the joint consideration, initiation or establishment thereof, may, under such rules and regulations as the commission may prescribe, apply to the commission for approval of the agreement, and the commission shall by order approve any such agreement, if approval thereof is not prohibited by subdivision (d), (e), or (f), if it finds that the agreement and the rules, regulations, and procedures provided for the operation thereof are fair and reasonable and not contrary to public policy; otherwise the application shall be denied. The approval of the commission shall be granted only upon such terms and conditions as the commission may prescribe as necessary to enable it to grant its approval in accordance

with this subdivision.

(c) Each conference, bureau, committee, or other organization established or continued pursuant to any agreement approved by the commission under the provisions of this section shall maintain such accounts, records, files, and memoranda and shall submit to the commission such reports, as may be prescribed by the commission, and all such accounts, records, files, and memoranda shall be subject to inspection by the commission or its duly authorized representatives.

(d) The commission shall not approve under this section any agreement between a carrier by highway and a carrier by rail unless it finds that such agreement is of the character described in subdivision (b) and is limited to matters relating to transportation under joint rates or over through routes.

(e) The commission shall not approve under this section any agreement which it finds is an agreement with respect to the pooling or division of traffic, service, or earnings.

(f) The commission shall not approve under this section any agreement which establishes a procedure for the determination of any matter through joint consideration unless it finds that under the agreement there is accorded to each party the free and unrestrained right to take independent action either before or after and determination arrived at through such procedure.

(g) The commission may, upon complaint or upon its own initiative without complaint, investigate and determine whether any agreement previously approved by it under this section, or any term or condition upon which such approval was granted, is not in conformity with subdivision (b), or whether any such term or condition is not necessary for purposes of conformity with subdivision (b). After such investigation, the commission may by order terminate or modify its approval of such agreement if it finds such action necessary to insure conformity with subdivision (b), and may modify the terms and conditions upon which such approval was granted to the extent it finds necessary to insure conformity with subdivision (b) or to the extent it finds such terms and conditions unnecessary to insure such conformity. The effective date of any order terminating or modifying approval, or modifying terms and conditions, may be postponed for such period as the commission determines is reasonably necessary to avoid undue hardship.

(h) No order shall be entered under this section except after interested parties have been afforded reasonable opportunity for hearing.

(i) The parties to any agreement approved by the commission under this section and other persons are, if the approval of such agreement is not prohibited by subdivision (d), (e), or (f), hereby exempted from the antitrust laws with respect to such agreement under the terms and conditions prescribed by the commission.

(j) Any action of the commission under this section in approving an agreement, or in denying an application for such approval, or in

terminating or modifying its approval of an agreement, or in prescribing the terms and conditions upon which its approval is to be granted, or in modifying such terms and conditions, shall be construed as having effect solely with reference to the applicability of subdivision (i).

SEC. 6. Article 3 (commencing with Section 1051) of Chapter 5 of Part 1 of Division 1 of the Public Utilities Code is repealed.

SEC. 7. It is the intent of the Legislature, if this bill and either Senate Bill 1305 or Assembly Bill 3057, or both, are chaptered and become effective January 1, 1981, this bill and either or both of the other bills amend Section 216 of the Public Utilities Code, and this bill is chaptered last, that the amendments to Section 216 proposed by this bill and either or both of the other bills be given effect and incorporated in Section 216 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 either Senate Bill 1305 or Assembly Bill 3057, or both, are chaptered and become effective January 1, 1981, this bill and either or both of the other bills amend Section 216, and this bill is chaptered last, in which case Section 2 of this act shall not become operative.

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## CHAPTER 1064

An act to amend Section 18921 of the Health and Safety Code, relating to physically handicapped persons.

[Approved by Governor September 25, 1980 Filed with  
Secretary of State September 26, 1980 ]

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

SECTION 1. Section 18921 of the Health and Safety Code is amended to read:

18921. (a) The appointed members of the commission shall be selected from, and represent the public, design professions, the building and construction industry, local government building officials, fire and safety officials, and labor in accordance with the following:

(b) Four members shall be appointed from among the professions and industries concerned with building construction as follows:

(1) An architect.

(2) A mechanical or electrical engineer or fire protection engineer.

(3) A structural engineer.

(4) A licensed contractor.

(c) Three members shall be appointed from among the general public at least one of whom shall be a physically handicapped person.

(d) One member shall be appointed from organized labor in the building trades.

(e) One member shall be appointed who is a local building official.

(f) One member shall be appointed who is a local fire official.

(g) On or before January 1, 1982, and thereafter, at least one member of the commission shall be experienced and knowledgeable in barrier free architecture and aware of, and sensitive to, the requirements necessary to ensure public buildings are accessible to, and usable by, the physically handicapped.

As used in this section, "physically handicapped" means persons who have permanent mobility impairments which affect ambulation due to cerebral palsy, poliomyelitis, spinal cord injury, amputation, and other conditions or diseases which reduce mobility or require the use of crutches, canes, or wheelchairs.

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## CHAPTER 1065

An act to add Section 66427.4 to the Government Code, relating to subdivisions.

[Approved by Governor September 25, 1980. Filed with  
Secretary of State September 26, 1980.]

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

**SECTION 1.** 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.

**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.

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## CHAPTER 1066

An act to amend Section 14030 of, and to add Section 13979.1 to, the Government Code, to amend Section 50737 of, and to add Section 50640.1 to, the Health and Safety Code, relating to transportation and housing policies.

[Approved by Governor September 25, 1980. Filed with  
Secretary of State September 26, 1980]

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

**SECTION 1.** Section 13979.1 is added to the Government Code, to read:

13979.1. With respect to coordinated planning and policy formulation in transportation and housing policies, the secretary shall be responsible for resolving significant policy conflicts among state, local, and federal housing plans and programs and state, local, or federal transportation plans and programs which impede effective implementation of state housing or state transportation policy.

**SEC. 2.** Section 14030 of the Government Code is amended to read:

14030. The powers and duties of the department shall include, but not be limited to, the following activities:

(a) Supporting the commission in coordinating and developing, in cooperation with local and regional entities, comprehensive balanced transportation planning and policy for the movement of people and goods within the state.

(b) Coordinating and assisting, upon request of, the various public and private transportation entities in strengthening their development and operation of balanced integrated mass transportation, highway, aviation, maritime, railroad, and other transportation facilities and services in support of statewide and regional goals.

(c) Developing, in cooperation with local and regional transportation entities, the full potential of all resources and opportunities which are now, and may become, available to the state and to regional and local agencies for meeting California's transportation needs, as provided by statutes and, in particular, maximizing the amount of federal funds which may be available to the state and increasing the efficiency by which such funds are utilized.

(d) Planning, designing, constructing, operating, and maintaining those transportation systems which the Legislature has made, or may make, the responsibility of the department; provided that the department is not authorized to assume the functions of project planning, designing, constructing, operating, or maintaining maritime or aviation facilities without express prior approval of the Legislature with the exception of those aviation functions which have been designated for the department in the Public Utilities Code.

(e) Coordinating and developing transportation research projects of statewide interest.

(f) Exercising such other functions, powers, and duties as are or may be provided for by law.

(g) With the Department of Housing and Community Development, investigating and reporting to the Secretary of Business and Transportation upon the consistency between state, local, and federal housing plans and programs and state, local, and federal transportation plans and programs.

SEC. 3. Section 50640.1 is added to the Health and Safety Code, to read:

50640.1. Consistent with the requirements of the final consent decree, in the planning and implementation of the Century Freeway Housing Program, the department shall also give adequate consideration to locating replacement housing units within existing public transit corridors, as defined in Section 50093.5. All other things being equal the department shall give preference to locations with convenient access to existing transit service.

SEC. 4. Section 50737 of the Health and Safety Code is amended to read:

50737. The department shall adopt rules and regulations, 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, for the administration of this chapter. The rules and regulations shall give priority in the allocation of funds available for the purposes of this chapter to the following:

(a) Rental housing developments which are of the lowest possible cost, given local market conditions.

(b) Rental housing developments which incorporate innovative design and construction techniques and higher densities that will result in lower costs while retaining quality.

(c) Rental housing developments which complement the implementation of a local housing program of increased housing supply for persons and families of low or moderate income.

(d) Rental housing developments for which the housing sponsor, whether public or private, has contributed funds, services, or land or for which Community Development Block Grant Funds have been allocated under Title I of Federal Public Law 93-383 for site acquisition, development costs, or construction costs.

(e) Rental housing developments which utilize available funds in

the most efficient manner to produce the maximum number of housing units.

(f) To the extent feasible and consistent with the other priorities contained in this section, rental housing developments which are located within existing public transit corridors as defined in Section 50093.5. However, this priority shall not apply to rental housing developments located in rural areas which are assisted pursuant to this chapter.

SEC. 5. Section 50737 of the Health and Safety Code, as amended by Section 3 of Assembly Bill 2153 of the 1979-80 Regular Session, is amended to read:

50737. The department shall adopt rules and regulations, 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, for the administration of this chapter. The rules and regulations shall give priority in the allocation of funds available for the purposes of this chapter to the following:

(a) Rental housing developments which are of the lowest possible cost, given local market conditions.

(b) Rental housing developments which incorporate innovative or energy-efficient design and construction techniques and higher densities that will result in lower costs while retaining quality.

(c) Rental housing developments which complement the implementation of a local housing program of increased housing supply for persons and families of low or moderate income.

(d) Rental housing developments for which the housing sponsor, whether public or private, has contributed or received funds, services, or land or for which Community Development Block Grant Funds have been allocated under Title I of Federal Public Law 93-383 for eligible expenditures, including, but not limited to, rent subsidies, site acquisition, development costs, or construction costs.

(e) Rental housing developments which utilize available funds in the most efficient manner to produce the maximum number of housing units.

(f) To the extent feasible and consistent with the other priorities contained in this section, rental housing developments which are located within existing public transit corridors as defined in Section 50093.5. However, this priority shall not apply to rental housing developments located in rural areas which are assisted pursuant to this chapter.

SEC. 6. It is the intent of the Legislature, if this bill and Assembly Bill 2153 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 50737 of the Health and Safety Code, and this bill is chaptered after Assembly Bill 2153, that Section 50737 of the Health and Safety Code, as amended by Section 3 of Assembly Bill 2153 be further amended on the operative date of this act in the form set forth in Section 5 of this act to incorporate the changes in Section 50737 of the Health and Safety Code proposed by this bill. Therefore, Section 5 of this act shall become operative only

if this bill and Assembly Bill 2153 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 50737 of the Health and Safety Code, and this bill is chaptered after Assembly Bill 2153, in which case Section 5 of this act shall become operative on the operative date of this act and Section 4 of this act shall not become operative.

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## CHAPTER 1067

An act to amend Section 199.2 of the Streets and Highways Code, relating to mass transit guideways.

[Approved by Governor September 25, 1980 Filed with  
Secretary of State September 26, 1980 ]

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

SECTION 1. Section 199.2 of the Streets and Highways Code is amended to read:

199.2. (a) All funds allocated for exclusive public mass transit guideway construction purposes pursuant to Sections 199 and 199.1 or made available for such purposes pursuant to subdivision (b) shall be retained in the State Highway Account or in a local revolving fund for such funds, until such funds are needed for expenditure by the local entities and the transit development board. Transfers shall be made from the State Highway Account to the local revolving fund in an amount not to exceed the estimated quarterly needs of the local revolving fund. Interest earned by the local agency on funds deposited in its local revolving fund shall be deposited therein and used for the same purposes as the transfers are used for. The department, local entities, and the board shall jointly establish procedures for the orderly implementation of this section.

(b) Upon application by the transit development board created by Section 120050 of the Public Utilities Code, the commission may by resolution adopt a plan under which the department shall advance State Highway Account funds to the transit development board for exclusive public mass transit guideway construction purposes. The plan shall provide for the method and timing of amortization of the principal of, and interest on, the advance. The maximum amount which shall be advanced under this subdivision shall not exceed an amount equal to the total allocations to the transit development board under Section 199.1 for the succeeding five fiscal years based upon the state transportation improvement program adopted pursuant to Section 14529 of the Government Code and in effect at the time the plan is adopted by the commission. The amount of funds advanced in excess of that to which the transit development board is currently entitled under Section 199.1 shall earn interest at the rate of interest equal to that which is earned on the State Pooled

Money Investment Fund. No advances shall be made after June 30, 1983. After June 30, 1983, allocations to the transit development board under Section 199.1 shall be applied to the amortization of the advances in excess of entitlement during the previous years until the advances, including the interest thereon, have been fully paid.

(c) The application of the transit development board to the commission for an advance shall include an operating plan which indicates the estimated cost of operating the system and the proposed sources of the operating revenues. The staff of the commission shall provide an analysis of the application, with special attention to be given to the financial element of the application.

(d) Notwithstanding Section 199, the funds so advanced shall not be deemed an expenditure on the state highway system solely within the year of the advance, but rather shall be deemed so expended over the five-year period in an amount during each year equal to the amount calculated for each of those years in arriving at the five-year total.

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## CHAPTER 1068

An act to amend Sections 6006 and 6010 of the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1980. Filed with  
Secretary of State September 26, 1980 ]

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

SECTION 1. Section 6006 of the Revenue and Taxation Code is amended to read:

6006. "Sale" means and includes:

(a) Any transfer of title or possession, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration. "Transfer of possession," includes only transactions found by the board to be in lieu of a transfer of title, exchange, or barter.

(b) The producing, fabricating, processing, printing, or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the producing, fabricating, processing, printing, or imprinting.

(c) The furnishing and distributing of tangible personal property for a consideration by social clubs and fraternal organizations to their members or others.

(d) The furnishing, preparing, or serving for a consideration of food, meals, or drinks.

(e) A transaction whereby the possession of property is

transferred but the seller retains the title as security for the payment of the price.

(f) A transfer for a consideration of the title or possession of tangible personal property which has been produced, fabricated, or printed to the special order of the customer, or of any publication.

(g) Any lease of tangible personal property in any manner or by any means whatsoever, for a consideration, except a lease of:

(1) Motion picture, including television, films and tapes.

(2) Linen supplies and similar articles when an essential part of the lease agreement is the furnishing of the recurring service of laundering or cleaning the articles.

(3) Household furnishings with a lease of the living quarters in which they are to be used.

(4) Mobile transportation equipment for use in transportation of persons or property as defined in Section 6023.

(5) Tangible personal property leased in substantially the same form as acquired by the lessor or leased in substantially the same form as acquired by a transferor, as to which the lessor or his transferor acquired the property in a transaction that was a retail sale with respect to which the lessor or the transferor has paid the sales tax or as to which the lessor or the transferor has paid use tax measured by the purchase price of the property. For purposes hereof, transferor shall mean the following:

(A) A person from whom the lessor acquired the property in a transaction described in subdivision (b) of Section 6006.5.

(B) A decedent from whom the lessor acquired the property by will or the laws of succession.

(6) A mobilehome, as defined in Sections 18008 and 18211 of the Health and Safety Code, other than a mobilehome originally sold new prior to July 1, 1980, and not subject to local property taxation.

SEC. 2. Section 6010 of the Revenue and Taxation Code is amended to read:

6010. "Purchase" means and includes:

(a) Any transfer of title or possession, exchange, or barter, conditional or otherwise, in any manner or by any means whatsoever, of tangible personal property for a consideration. "Transfer of possession," includes only transactions found by the board to be in lieu of a transfer of title, exchange, or barter.

(b) When performed outside this state or when the customer gives a resale certificate pursuant to Article 3 (commencing with Section 6091) of Chapter 2 of this part, the producing, fabricating, processing, printing, or imprinting of tangible personal property for a consideration for consumers who furnish either directly or indirectly the materials used in the producing, fabricating, processing, printing, or imprinting.

(c) A transaction whereby the possession of property is transferred but the seller retains the title as security for the payment of the price.

(d) A transfer for a consideration of tangible personal property

which has been produced, fabricated, or printed to the special order of the customer, or of any publication.

(e) Any lease of tangible personal property in any manner or by any means whatsoever, for consideration, except a lease of:

(1) Motion picture, including television, films and tapes.

(2) Linen supplies and similar articles when an essential part of the lease agreement is the furnishing of the recurring service of laundering or cleaning the articles.

(3) Household furnishings with a lease of the living quarters in which they are to be used.

(4) Mobile transportation equipment for use in transportation of persons or property as defined in Section 6023.

(5) Tangible personal property leased in substantially the same form as acquired by the lessor or leased in substantially the same form as acquired by a transferor, as to which the lessor or his transferor acquired the property in a transaction that was a retail sale with respect to which the lessor or the transferor has paid sales tax or as to which the lessor or the transferor has paid use tax measured by the purchase price of the property. For purposes hereof, transferor shall mean the following:

(A) A person from whom the lessor acquired the property in a transaction described in subdivision (b) of Section 6006.5.

(B) A decedent from whom the lessor acquired the property by will or the laws of succession.

(6) A mobilehome, as defined in Sections 18008 and 18211 of the Health and Safety Code, other than a mobilehome originally sold new prior to July 1, 1980, and not subject to local property taxation.

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:

Under existing law, a lessor must pay both sales and use tax on tangible personal property purchased from a vendor which subsequently goes into bankruptcy or insolvency and where such vendor failed to remit sales taxes paid by the lessor to the state. In order to remove this inequitable double taxation as soon as possible, it is necessary that this act take effect immediately.

## CHAPTER 1069

An act to add Article 6 (commencing with Section 12600) to Chapter 6 of Title 2 of Part 4 of the Penal Code, relating to less lethal weapons.

[Approved by Governor September 25, 1980. Filed with  
Secretary of State September 26, 1980 ]

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

SECTION 1. Article 6 (commencing with Section 12600) is added to Chapter 6 of Title 2 of Part 4 of the Penal Code, to read:

Article 6. Less Lethal Weapons

12600. A person who is a peace officer as defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 may if authorized by and under such terms and conditions as are specified by his or her employing agency purchase, possess, or transport any less lethal weapon or ammunition therefor, for official use in the discharge of his or her duties.

12601. (a) "Less lethal weapon" shall apply to and include any device which is designed to or which has been converted to expel or propel less lethal ammunition by any action, mechanism, or process for the purpose of incapacitating, immobilizing, or stunning a human being through the infliction of any less than lethal impairment of physical condition, function, or senses, including physical pain or discomfort. It is not necessary that a weapon leave any lasting or permanent incapacitation, discomfort, pain, or other injury or disability in order to qualify as a less lethal weapon.

(b) Less lethal weapon includes the frame or receiver of any weapon described in subdivision (a), but shall not include any of the following unless such part or weapon has been converted as described in subdivision (a):

(1) Pistol, revolver, or firearm defined in Section 12001.

(2) Machine gun defined in Section 12200.

(3) Rifle or shotgun using fixed ammunition consisting of standard primer and powder and not capable of being concealed upon the person.

(4) Pistols, rifles, and shotguns which are firearms having a barrel less than 0.18 inches in diameter and which are designed to expel a projectile by any mechanical means or by compressed air or gas.

(5) When used as designed or intended by the manufacturer, any weapon commonly regarded as a toy gun, and which as such is incapable of inflicting any impairment of physical condition, function, or senses.

(6) A destructive device defined in Section 12301.

(7) A tear gas weapon defined in Section 12402.

- (8) A bow or crossbow designed to shoot arrows.
- (9) A device commonly known as a slingshot.
- (10) A device designed for the firing of stud cartridges, explosive rivets, or similar industrial ammunition.
- (11) A device designed for signaling, illumination, or safety.
- (c) "Less lethal ammunition" means any ammunition which (1) is designed to be used in any less lethal weapon or any other kind of weapon (including, but not limited to, firearms, pistols, revolvers, shotguns, rifles, and spring, compressed air, and compressed gas weapons) and (2) when used in such less lethal weapon or other weapon is designed to immobilize or incapacitate or stun a human being through the infliction of any less than lethal impairment of physical condition, function, or senses, including physical pain or discomfort.

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## CHAPTER 1070

An act to add Article 8.1 (commencing with Section 5030) to Chapter 1 of Division 3 of, and to repeal Section 39013 of, the Vehicle Code, relating to vehicles, and making an appropriation therefor.

[Approved by Governor September 25, 1980 Filed with  
Secretary of State September 26, 1980]

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

SECTION 1. Article 8.1 (commencing with Section 5030) is added to Chapter 1 of Division 3 of the Vehicle Code, to read:

### Article 8.1. Motorized bicycles

5030. A motorized bicycle, as defined in Section 406, is required to display a special license plate issued by the department.

5031. An application by a person other than a manufacturer or dealer for a license plate for a motorized bicycle shall include all the following:

(a) A description of the motorized bicycle, including any distinctive marks or features.

(b) Such other information as may reasonably be required by the department to determine whether a license plate shall be issued for the motorized bicycle.

5032. (a) The application for a special license plate for a motorized bicycle shall be made before the motorized bicycle is operated or moved upon a highway, except that, upon the retail sale of a motorized bicycle when there is no license plate, the operator may operate the motorized bicycle for a period of five days from and including the date of sale, at which time application shall be made to the department for a special license plate. If the fifth day should

fall on Saturday, Sunday, or a holiday, the application shall be made on the first business day thereafter.

(b) The five-day operating provision set forth in subdivision (a) shall apply only if the operator has in his immediate possession evidence that the motorized bicycle was purchased within the last five days including the date of sale.

5033. Upon proper application and payment of the fees specified in Section 5036, the department shall issue a special license plate and an identification card for the motorized bicycle for which application was made. Applications may be submitted by mail unless the department determines that it is not feasible to complete the identification process by such method.

5034. (a) The department may issue a special license plate or other suitable device to a manufacturer or dealer of motorized bicycles upon payment of the fee specified in Section 5036. The license plate shall be of a size, color and configuration determined by the department. The form of the application shall also be determined by the department.

(b) A manufacturer or dealer of motorized bicycles may operate or move a motorized bicycle upon the highways during the delivery of, or during the demonstration for the sale of, the motorized bicycle if the motorized bicycle displays thereon a license plate or other suitable device issued to the manufacturer or dealer.

5035. Each license plate issued under Section 5033 shall bear a distinctive number to identify the motorized bicycle for which it is issued and shall bear a symbol, letter, or word to distinguish license plates issued under this article from license plates issued for motorcycles and motor-driven cycles. The owner, upon being issued a license plate, shall attach it to the motorized bicycle for which it is issued and shall carry the identification card issued by the department as provided in Section 4454. It shall be unlawful for any person to attach or use the license plate upon any other motorized bicycle or vehicle. If the motorized bicycle is destroyed, the owner shall destroy the license plate and shall within 10 days notify the department on a form approved by the department that the motorized bicycle and license plate have been destroyed.

If the ownership of the motorized bicycle is transferred to another person, that person shall submit, within 10 days, proper application as provided in Section 5031. The license plate shall remain with the motorized bicycle.

5036. A service fee of five dollars (\$5) shall be paid for the issuance or transfer of a special license plate for motorized bicycles, as defined in Section 406. Publicly-owned motorized bicycles are exempt from the fee.

5037. (a) No motorized bicycle first sold on or after July 1, 1981, shall be moved or operated upon a highway unless the owner first makes application for a license plate and, when received, attaches it to the motorized bicycle as provided in this article.

(b) Motorized bicycles first sold prior to July 1, 1981, shall not be

moved or operated upon a highway after January 1, 1982, unless the owner makes application for a license plate and, when received, attaches it to the motorized bicycle as provided in this article.

(c) Any motorized bicycle currently licensed pursuant to Division 16.7 (commencing with Section 39000) on July 1, 1981, may be operated upon a highway until July 1, 1982.

5038. The department shall establish a record system that provides for identification of stolen motorized bicycles.

5039. Notwithstanding any other provision of law, no dealer, manufacturer, salesman, or representative of motorized bicycles exclusively is required to be licensed or permitted pursuant to Chapter 4 (commencing with Section 11700) of Division 5.

SEC. 2. Section 39013 of the Vehicle Code is repealed.

SEC. 3. The sum of twenty-nine thousand five hundred sixty dollars (\$29,560) is hereby appropriated from the Motor Vehicle Account in the State Transportation Fund to the Department of Motor Vehicles to implement Article 8.1 (commencing with Section 5030) of Chapter 1 of Division 3 of the Vehicle Code.

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.

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## CHAPTER 1071

An act to add Article 2.5 (commencing with Section 11165) to Chapter 2 of Title 1 of Part 4 of, and to repeal Sections 11161.5, 11161.6, and 11161.7 of, the Penal Code, relating to child abuse.

[Approved by Governor September 25, 1980. Filed with Secretary of State September 26, 1980.]

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

SECTION 1. Section 11161.5 of the Penal Code is repealed.

SEC. 2. Section 11161.6 of the Penal Code is repealed.

SEC. 3. Section 11161.7 of the Penal Code is repealed.

SEC. 4. Article 2.5 (commencing with Section 11165) is added to Chapter 2 of Title 1 of Part 4 of the Penal Code, to read:

## Article 2.5. Child Abuse Reporting

11165. As used in this article:

(a) "Child" means a person under the age of 18 years.

(b) "Sexual assault" means conduct in violation of the following sections of the Penal Code: Sections 261 (rape), 261.5 (unlawful sexual intercourse), 264.1 (rape in concert), 285 (incest), 286 (sodomy), subdivisions (a) and (b) of Section 288 (lewd or lascivious acts upon a child under 14 years of age), and Sections 288a (oral copulation), 289 (penetration of a genital or anal opening by a foreign object), and 647a (child molestation).

(c) "Neglect" means the negligent failure of a person having the care or custody of any child to protect a child from severe malnutrition or medically diagnosed nonorganic failure to thrive. For the purposes of this chapter, a child receiving treatment by spiritual means as provided in Section 16508 of the Welfare and Institutions Code shall not for that reason alone be considered a neglected child.

(d) "Willful cruelty or unjustifiable punishment of a child" means a situation where any person willfully causes or permits any child to suffer, or inflicts thereon, unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be placed in such situation that his or her person or health is endangered.

(e) "Corporal punishment or injury" means a situation where any person willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition.

(f) "Abuse in out-of-home care" means situations of suspected physical injury on a child which is inflicted by other than accidental means, or of sexual abuse or neglect or the willful cruelty or unjustifiable punishment of a child, as defined in this article, where the person responsible for the child's welfare is a foster parent or the administrator or an employee of a public or private residential home, school, or other institution or agency.

(g) "Child abuse" means a physical injury which is inflicted by other than accidental means on a child by another person. "Child abuse" also means the sexual assault of a child or any act or omission proscribed by Section 273a (willful cruelty or unjustifiable punishment of a child) or 273d (corporal punishment or injury). "Child abuse" also means the neglect of a child or abuse in out-of-home care, as defined in this article.

(h) "Child care custodian" means a teacher, administrative officer, supervisor of child welfare and attendance, or certificated pupil personnel employee of any public or private school; an administrator of a public or private day camp; a licensed day care worker; an administrator of a community care facility licensed to care for children; headstart teacher; public assistance worker; employee of a child care institution including, but not limited to, foster parents, group home personnel and personnel of residential

care facilities; a social worker or a probation officer.

(i) "Medical practitioner" means a physician and surgeon, psychiatrist, psychologist, dentist, resident, intern, podiatrist, chiropractor, licensed nurse, dental hygienist, or any other person who is currently licensed under Division 2 (commencing with Section 500) of the Business and Professions Code.

(j) "Nonmedical practitioner" means a state or county public health employee who treats a minor for venereal disease or any other condition; a coroner; a paramedic; a marriage, family, or child counselor; or a religious practitioner who diagnoses, examines, or treats children.

(k) "Child protective agency" means a police or sheriff's department, a county probation department, or a county welfare department.

11166. (a) Except as provided in subdivision (b), any child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency who has knowledge of or observes a child in his or her professional capacity or within the scope of his or her employment whom he or she reasonably suspects has been the victim of child abuse shall report such suspected instance of child abuse to a child protective agency immediately or as soon as practically possible by telephone and shall prepare and send a written report thereof within 36 hours of receiving the information concerning the incident. For the purposes of this article, "reasonable suspicion" means that it is objectively reasonable for a person to entertain such a suspicion, based upon facts that could cause a reasonable person in a like position, drawing when appropriate on his or her training and experience, to suspect child abuse.

(b) Any child care custodian, medical practitioner, nonmedical practitioner, or employee of a child protective agency who has knowledge of or who reasonably suspects that mental suffering has been inflicted on a child or its emotional well-being is endangered in any other way, may report such suspected instance of child abuse to a child protective agency.

(c) Any other person who had knowledge of or observes a child whom he or she reasonably suspects has been a victim of child abuse may report such suspected instance of child abuse to a child protective agency.

(d) When two or more persons who are required to report are present and jointly have knowledge of a suspected instance of child abuse, and when there is agreement among them, the telephone report may be made by a member of the team selected by mutual agreement and a single report may be made and signed by such selected member of the reporting team. Any member who has knowledge that the member designated to report has failed to do so, shall thereafter make such report.

(e) The reporting duties under this section are individual, and no supervisor or administrator may impede or inhibit such reporting duties and no person making such report shall be subject to any

sanction for making such report. However, internal procedures to facilitate reporting and apprise supervisors and administrators of reports may be established provided that they are not inconsistent with the provisions of this article.

(f) A county probation or welfare department shall immediately or as soon as practically possible report by telephone every instance of suspected child abuse as defined in Section 11165 reported to it to the law enforcement agency having jurisdiction over the case, and to the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code, and shall send a written report thereof within 36 hours of receiving the information concerning the incident to that agency.

A law enforcement agency shall immediately or as soon as practically possible report by telephone every instance of suspected child abuse reported to it to county social services and the agency given responsibility for investigation of cases under Section 300 of the Welfare and Institutions Code and shall send a written report thereof within 36 hours of receiving the information concerning the incident to such agency.

11167. (a) A telephone report of suspected child abuse shall include the name of the person making the report, the name of the child, the present location of the child, the nature and extent of the injury, and any other information, including information that led such person to suspect child abuse, requested by the child protective agency.

(b) Information relevant to the incident of child abuse may also be given to an investigator from a child protective agency who is investigating the suspected case of child abuse.

(c) Persons who may report pursuant to subdivision (c) of Section 11166 are not required to include their names. The identity of all persons who report under this article shall be confidential and disclosed only by court order or between child protective agencies or the probation department.

11168. The written reports required by Section 11166 shall be submitted on forms adopted by the Department of Justice after consultation with representatives of the various professional medical associations and hospital associations and county probation or welfare departments. Such forms shall be distributed by the child protective agencies.

11169. A child protective agency shall forward to the Department of Justice a preliminary report in writing of every case of suspected child abuse which it investigates, whether or not any formal action is taken in the case. However, if after investigation the case proves to be unfounded no report shall be retained by the Department of Justice. If a report has previously been filed which has proved unfounded the Department of Justice shall be notified of that fact. The report shall be in a form approved by the Department of Justice. A child protective agency receiving a written report from another child protective agency shall not send such report to the

**Department of Justice.**

11170. The Department of Justice shall immediately notify a child protective agency which submits a report pursuant to Section 11169 of any information maintained pursuant to Section 11110 which is relevant to the suspected instance of child abuse reported by the agency. The indexed reports retained by the Department of Justice shall be continually updated and shall not contain any unfounded reports. A child protective agency shall make such information available to the reporting medical practitioner, child custodian, or guardian ad litem appointed under Section 318 of the Welfare and Institutions Code, if he or she is treating or investigating a case of suspected child abuse.

When a report is made pursuant to subdivision (a) of Section 11166, the investigating agency shall, upon completion of the investigation or after there has been a final disposition in the matter, inform the person required to report of the results of the investigation and of any action the agency is taking with regard to the child or family.

11171. (a) A physician and surgeon or dentist or their agents and by their direction may take skeletal X-rays of the child without the consent of the child's parent or guardian, but only for purposes of diagnosing the case as one of possible child abuse and determining the extent of such child abuse.

(b) Neither the physician-patient privilege nor the psychotherapist-patient privilege applies to information reported pursuant to this article in any court proceeding or administrative hearing.

11172. (a) No child care custodian, medical practitioner or nonmedical practitioner reporting a suspected instance of child abuse shall be civilly or criminally liable for any report required or authorized by this article. Any other person reporting a suspected instance of child abuse shall not incur civil or criminal liability as a result of any report authorized by this section unless it can be proved 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.

(b) Any person who fails to report as required by this article an instance of child abuse which he or she knows to exist or reasonably should know to exist is guilty of a misdemeanor and is punishable by confinement in the county jail for a term not to exceed six months or by a fine of not more than five hundred dollars (\$500) or by both.

11174. The Department of Justice, in cooperation with the State

Department of Social Services, shall prescribe by regulation guidelines for the investigation of child abuse, as defined in subdivision (g) of Section 11165, in group homes or institutions and shall ensure that every investigation of such alleged child abuse is conducted in accordance with such regulations and guidelines.

SEC. 5. In reenacting the child abuse reporting law, it is the intent of the Legislature to clarify the duties and responsibilities of those who are required to report child abuse. The new provisions are designed to foster cooperation between child protective agencies and other persons required to report. Such cooperation will insure that children will receive the collective judgment of all such agencies and persons regarding the course to be taken to protect the child's interest.

In enacting Article 2.5 (commencing with Section 11165) of Chapter 2 of Title 1 of Part 4 of the Penal Code, the Legislature recognizes that the reporting of child abuse and any subsequent action by a child protective agency involves a delicate balance between the right of parents to control and raise their own children by imposing reasonable discipline and the social interest in the protection and safety of the child. Therefore, it is the intent of the Legislature to require the reporting of child abuse which is of a serious nature and is not conduct which constitutes reasonable parental discipline.

In repealing Sections 11161.5, 11161.6, and 11161.7 of, and in reenacting the Child Abuse Reporting Law in Article 2.5 (commencing with Section 11165) of Chapter 2 of Title 1 of Part 4 of, the Penal Code, it is not the intent of the Legislature to alter the holding in the decision of *Landeros v. Flood* (1976), 17 Cal. 3d 399, which imposes civil liability for a failure to report child abuse.

It is the intent of the Legislature to encourage each county welfare department to establish within the department a toll-free number for receiving reports of child abuse 24 hours a day, seven days a week.

It is the intent of the Legislature to encourage the board of supervisors of each county to establish a committee composed of representatives from the county welfare department, local law enforcement agencies, county probation department, county health department and other persons representative of the population to be served, and any other person the board of supervisors deems appropriate, which would establish guidelines for the sharing of information and the coordination of the investigation of cases of child abuse.

It is the intent of the Legislature to encourage the county welfare or probation departments to promptly perform for each mandated report they receive and each report received pursuant to subdivision (b) of Section 11166 a thorough assessment to determine all of the following:

(a) The composition of the family or household, including the name, address, age, sex, and race of each child named in the report, and any siblings or other children in the same household or in the

care of the same adults.

(b) Whether there is reasonable suspicion to believe that any child in the family, household, or child-care facility is being abused or neglected and a determination of the person or persons apparently responsible for the abuse or neglect.

(c) The immediate and long-term risk to each child if he or she remains in the existing environment.

(d) The protective treatment and ameliorative services that appear necessary to help prevent further child abuse or neglect.

SEC. 6. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because the duties, obligations, or responsibilities imposed on local agencies or school districts by this act are such that related costs are incurred as part of their normal operating procedures, and because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction. 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.

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## CHAPTER 1072

An act to add Section 1157.5 to the Health and Safety Code, and to amend Sections 16702 and 16704 of the Welfare and Institutions Code, relating to health, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1980. Filed with  
Secretary of State September 26, 1980]

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

SECTION 1. Section 1157.5 is added to the Health and Safety Code, to read:

1157.5. Upon request of the board of supervisors of any county which received public health services or funding, or both, during the fiscal year 1979-80 pursuant to Section 1157, the State Department of Health Services shall transfer the dollar value of such services or funding, or both, as an allocation to the county pursuant to Part 4.5 (commencing with Section 16700) of Division 9 of the Welfare and Institutions Code. For purposes of this section, the dollar value of such services or funding, or both, shall include the direct and indirect costs appropriated to the State Department of Health Services to provide public health services to the county pursuant to Section 1157 for the fiscal year preceding the effective date of the request to transfer funds, less any funds allocated from appropriations for child health and disability prevention programs as described in Article 3.4

(commencing with Section 320) of Chapter 2 of Part 1 of this division or for family planning services as described in Chapter 8.5 (commencing with Section 14500) of Part 3 of Division 9 of the Welfare and Institutions Code. Indirect costs subject to this section shall be limited to 17 percent of total personal services costs involved in the direct provision of services.

SEC. 2. Section 16702 of the Welfare and Institutions Code is amended to read:

16702. The net county costs of health services specified in each county budget shall be financed in each county with assistance from the County Health Services Fund in accordance with the following:

(a) An annual grant of three dollars (\$3) per capita based upon population estimates of the Department of Finance as of January 1 of the previous fiscal year; and

(b) Fifty percent of the amount derived by subtracting paragraph (2) from paragraph (1) below:

(1) The actual net costs for the county for the 1977-78 fiscal year, as reported to the State Director of Health Services pursuant to subdivision (f) of Section 20 of Chapter 292 of the Statutes of 1978, increased by 16 percent for the 1979-80 fiscal year;

(2) The amount calculated for the county in subdivision (a).

(c) The amount of assistance from the County Health Services Fund for the County of Alameda shall include an amount equal to 50 percent of the net city costs for health services of the City of Berkeley as reported to the State Director of Health Services pursuant to subdivision (f) of Section 20 of Chapter 292 of the Statutes of 1978, increased by 16 percent for the 1979-80 fiscal year.

(d) The amount of funds transferred at the request of the county pursuant to Section 1157.5 of the Health and Safety Code.

(e) Commencing July 1, 1980, and each July 1 thereafter, the amounts specified in subdivisions (a), (b), (c), and (d) shall be adjusted to reflect any increases or decreases in the cost of living. The average of the separate indices of the cost of living for Los Angeles and San Francisco as published by the United States Bureau of Labor Statistics shall be used as the basis for determining the changes in the cost of living. The State Department of Health Services shall compare the average index for the December preceding the July in which the cost-of-living adjustment is effective with the average index for the month of December of the previous year. The percentage increase or decrease in the average index shall then be multiplied by the amounts specified in subdivisions (a), (b), (c), and (d) as previously adjusted pursuant to this subdivision.

SEC. 3. Section 16704 of the Welfare and Institutions Code is amended to read:

16704. Funds from the County Health Services Fund shall be allocated to the governing body of each county annually in accordance with the following procedures:

(a) The allocation of the amount determined in subdivision (a) of Section 16702 shall be made to each governing body upon submission

of the plan and budget as required by Section 16700. Such funds shall be expended for county health services.

(b) (1) The allocation of the amounts up to the maximum determined in subdivisions (b) and (d) of Section 16702 shall be made upon application by the governing body of each county and upon signing of an agreement between the governing body and the State Director of Health Services. In such agreement, the county shall agree to expend funds in an aggregate amount at least equal to the total amount designated in the plan and budget submitted pursuant to Section 16700 and shall agree to net county costs for county health services of county funds in the same amount as the funds requested under this paragraph pursuant to subdivision (b) of Section 16702. Counties shall agree to expend one dollar (\$1) of county funds for every three dollars (\$3) of state funds requested pursuant to subdivision (d) of Section 16702. Funds requested pursuant to subdivision (d) of Section 16702 shall be expended for public health services.

(2) The allocation to the County of Alameda shall be made only when the agreement between the County of Alameda and the City of Berkeley specified in subdivision (c) of this section is received by the State Department of Health Services.

(c) The allocation of the amount calculated in subdivision (c) of Section 16702 shall be made to the County of Alameda upon the signing of an agreement between the County of Alameda and the City of Berkeley whereby (1) 50 percent of the allocation shall be provided to Berkeley for the purposes of supporting the city's health services, and (2) Berkeley agrees to maintain its level of net city costs for health services at the 1978-79 fiscal year level, as adjusted by an 8 percent increase for the 1979-80 fiscal year and as adjusted annually thereafter by the cost-of-living index specified in subdivision (d) of Section 16702. The remainder of the allocation under this subdivision shall become available to the County of Alameda under the same conditions as specified in subdivisions (b) and (d) of this section.

This subdivision shall have no further force and effect if the City of Berkeley transfers to the County of Alameda the enforcement authority of applicable public health statutes and regulations. This subdivision shall remain operative only until July 1, 1981, and shall not remain in effect after such date unless a later enacted statute, which is chaptered before July 1, 1981, deletes or extends such date.

(d) The agreement shall provide for reports of expenditures and information and shall constitute a contractual obligation. The State Director of Health Services shall not have the authority to disapprove the county health services plan or to require the additional expenditure of county funds for health services beyond that required by this section and Section 16707.

(e) The county shall act in general accordance with the plan and budget submitted pursuant to Section 16700.

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:

Public health services are essential to the health and safety of the citizens of the state. In order to maintain public health services in counties which become independent in the 1980 calendar year, it is necessary that this act take effect immediately.

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## CHAPTER 1073

An act to amend Sections 14303, 14303.1, 14303.2, 14304, and 14308 of, to add Section 14303.3 to, and to repeal and add Section 14300 to the Welfare and Institutions Code, relating to prepaid health plans.

[Approved by Governor September 25, 1980 Filed with  
Secretary of State September 26, 1980 ]

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

SECTION 1. Section 14300 of the Welfare and Institutions Code is repealed.

SEC. 2. Section 14300 is added to the Welfare and Institutions Code, to read:

14300. The department shall publish a notice of intent to contract at least 30 days prior to the effective date of any initial or renewed contract. Such notice will appear in local newspapers circulated in the service areas of the prepaid health plan. The notice shall announce the department's intent to contract and any person affected by the contract shall have the opportunity to request that a public hearing be held. The request for public hearing shall be accompanied by an explanation of the reason for the request and a description of problems or questions regarding the plan's ability to meet its contractual obligations. A hearing shall be held by the department if the director determines that the request is reasonable and warrants a full public hearing. A request shall be considered reasonable if there is a question regarding the plan's ability to meet its contractual obligations.

No contract shall be signed by the department until the department determines that the plan has the ability to fully comply with its contractual obligations.

SEC. 3. Section 14303 of the Welfare and Institutions Code is amended to read:

14303. No contract between the department and the prepaid health plan shall be amended without the public notice and if necessary the holding of a public hearing as required in Section 14300 if such amendments make any of the following changes in the contract:

- (a) Reduction in the scope or availability of services.
- (b) Enlargement of the service area.

(c) Increase in the maximum enrollment permitted under the contract.

(d) Any other change in the plan's organization, operation, or delivery of services which the director determines will have a substantial impact on the ability of enrollees to obtain health care services.

SEC. 4. Section 14303.1 of the Welfare and Institutions Code is amended to read:

14303.1. The department shall have authority to amend a prepaid health plan contract in accordance with the terms of a merger of a prepaid health plan with another organization or organizations other than the plan's subsidiary corporation, its parent corporation, or another subsidiary of its parent corporation, provided the surviving organization meets the following conditions:

(a) The surviving organization assures the continued and accessible delivery of health care services to enrollees.

(b) The plans concerned have satisfactorily demonstrated the fiscal and administrative soundness of the newly proposed organization.

(c) The enrollees of the plans concerned are informed of the impending merger, any resulting changes in the service area or delivery of health care services, and such other information required by subdivision (a) of Section 14406 at least 30 days in advance of the merger.

(d) The enrollees of the plans concerned are given the option of disenrolling for any cause within 60 days following the effective date of the merger.

(e) Public notice is given and if necessary a public hearing is held as required by Section 14300.

(f) The organization meets such other requirements as deemed necessary by the department in order to carry out the purpose of this chapter.

SEC. 5. Section 14303.2 of the Welfare and Institutions Code is amended to read:

14303.2. The department shall have authority to amend a prepaid health plan contract in accordance with the terms of the reorganization of a prepaid health plan or a merger of the plan with its subsidiary corporation, its parent corporation, or another subsidiary of its parent corporation, provided the following conditions are met:

(a) The resulting or surviving organization assures the continued and accessible delivery of health care services to enrollees.

(b) The plan has satisfactorily demonstrated the fiscal and administrative soundness of the newly proposed organization.

(c) If the proposed reorganization or merger results in any change of the plan's service area or delivery of health care services, or if the director otherwise deems it to be appropriate, the following additional conditions shall be met:

(1) Public notice is given and if necessary a public hearing is held

as required by Section 14300.

(2) The enrollees of the plan are informed of the impending reorganization or merger, any resulting changes in the service area or delivery of health care services, and such other information required by subdivision (a) of Section 14406 at least 30 days in advance of the reorganization or merger.

(3) The enrollees of the plan are given the option of disenrolling for any cause within 60 days following the effective date of the reorganization or merger.

(d) The plan meets such other requirements as deemed necessary by the department in order to carry out the purpose of this chapter.

SEC. 6. Section 14303.3 is added to the Welfare and Institutions Code, to read:

14303.3. The department shall renew a contract unless good cause is shown for nonrenewal.

SEC. 7. Section 14304 of the Welfare and Institutions Code is amended to read:

14304. (a) The director shall terminate a contract with a prepaid health plan if he finds that the standards prescribed in this chapter, the regulations, or the contract are not being complied with, that claims accrued or to accrue have not or will not be recompensed, or for other good cause shown. Except in the event that the director determines there is an immediate threat to the health of Medi-Cal beneficiaries enrolled in the plan, the Office of Administrative Hearings, at the request of the plan, shall hold a public hearing to commence 30 days after notice of intent to terminate the contract has been received by the plan. The department shall present evidence at the hearing showing good cause for the termination. The Office of Administrative Hearing shall provide its written recommendation to the department on the termination of the contract within 30 days after conclusion of the hearing. Reasonable notice of the hearing shall be given to the prepaid health plan, to Medi-Cal beneficiaries enrolled in the plan, and others who may be directly interested, including such other persons and organizations as the director may deem necessary. The notice shall state the effective date of, and the reason for, the termination.

(b) In lieu of contract termination specified in subdivision (a), the director shall have the power and authority to take one or more of the following sanctions against a contractor for noncompliance with the standards prescribed in this chapter, the regulations or the contract:

(1) Suspend enrollment and marketing activities.

(2) Require the contractor to suspend or terminate contractor personnel or subcontractors.

(3) Impose civil penalties not to exceed five thousand dollars (\$5,000) per violation pursuant to regulations adopted by the director.

The director shall give reasonable notice of his intention to apply any of the sanctions authorized by this subdivision to the prepaid

health plan and others who may be directly interested, including such other persons and organizations as the director may deem necessary. The notice shall include the effective date, the duration of, and the reason for each sanction proposed by the director.

(c) Notwithstanding subdivision (b), the director shall terminate a contract with a prepaid health plan which the United States Secretary of Health, Education and Welfare has determined does not meet the requirements for participation in the Medicaid Program (Title XIX of the Social Security Act).

(d) Proceedings to impose the sanctions in subdivision (b) shall be governed by the provisions of Chapter 5 (commencing with Section 11500), Part 1, Division 3, Title 2 of the Government Code. The director may collect civil penalties by withholding the amount from capitation owed to the plan.

Proceedings to terminate a prepaid health plan contract under subdivisions (a) and (c) shall be governed by the provisions of subdivision (a).

SEC. 8. Section 14308 of the Welfare and Institutions Code is amended to read:

14308. (a) Each prepaid health plan shall furnish to the director such information and reports as required by Title XIX of the federal Social Security Act.

(b) The director may require a prepaid health plan to provide the director with information and reports which are furnished by the prepaid health plan to the Commissioner of Corporations pursuant to the provisions of the Knox-Keene Health Care Service Plan Act of 1975, Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code.

(c) The director may, by regulation, require plans to furnish statistical information to the extent such information is necessary for the department to establish rates of payment pursuant to Section 14301. The department shall, to the extent feasible, accept this information in a form which is consistent with reports required to be provided pursuant to the Knox-Keene Health Care Service Plan Act of 1975. In the case of a hospital based plan which is a health maintenance organization qualified pursuant to Title XIII of the federal Public Health Service Act, and which has more than one million enrollees, of whom less than 10 percent are Medi-Cal enrollees, information required pursuant to this subdivision shall consist of reports required to be made to the Department of Health, Education and Welfare pursuant to Title XIII of the federal Public Health Service Act.

## CHAPTER 1074

An act to add Section 25612 to the Public Resources Code, relating to public buildings.

[Approved by Governor September 25, 1980. Filed with Secretary of State September 26, 1980 ]

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

SECTION 1. Section 25612 is added to the Public Resources Code, to read:

25612. By April 1, 1982, the commission shall promulgate standards for the construction of governmental agency buildings which utilize, to the extent it produces a diminution of energy over conventional or other practices and is consistent with the state of the art in building design, passive solar design. The standards shall be performance standards and shall be promulgated in terms of the annual consumption of energy expressed in British thermal units per square foot of floor space. The standards shall take into account variations in climate and building design techniques. In promulgating the standards, the commission shall provide alternative methods and designs to achieve performance compliance.

(a) The standards shall include, but need not be limited to, the following:

- (1) Use of skylights.
- (2) Openable windows.
- (3) Appropriate building orientation, if appropriate to the passive solar system.
- (4) Thermal mass, of structural or nonstructural type, for storage of heat or coldness.
- (5) Landscaping.
- (6) Roof ponds and water walls.

(b) The commission shall utilize the service of the Department of Education and the Office of the State Architect in developing the standards. The commission shall hold at least one hearing on the standards to consider the comments of those affected by their implementation. In promulgating the standards, the commission shall consider, but is not limited to, the following:

- (1) Reduced distraction from outside noise and activity where applicable.
- (2) Flexibility of the interior of the building for multiple uses.
- (3) Use of the building as an energy learning tool.
- (4) The maximum reduction of fossil fuel and electrical energy.
- (5) The reduction, to the extent feasible, of mechanical systems for lighting, heating, cooling, and ventilation.

(c) The commission shall take all reasonable steps to notify school districts, local government, and members of the building design

profession of the development of the standards and shall hold workshops with members of the affected groups to review the standards. Such notification shall be performed at least 120 days prior to the adoption of the standards. The standards shall be cost effective when amortized over the economic life of the structure when compared with historic practice. The commission shall periodically review the standards and adopt such revisions as it deems necessary.

(d) Six months after the adoption of the standards pursuant to this section, no city, county, city and county or state agency shall issue a permit for any governmental agency building unless the building satisfies the standards prescribed by the commission pursuant to this section.

(e) The Office of the State Architect shall, in its review of school design for safety, under Section 39140 or 81130 of the Education Code, review the proposed design for compliance with this section. If the school design does not comply with the provisions of this section, the State Architect shall not approve the application filed pursuant to Section 39143 of the Education Code.

(f) Standards promulgated pursuant to this section shall be submitted to the Legislature at least 60 days prior to becoming effective.

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.

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## CHAPTER 1075

An act to amend Section 14136 of, and to add Section 14136.1 to, the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 25, 1980. Filed with  
Secretary of State September 26, 1980.]

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

SECTION 1. Section 14136 of the Welfare and Institutions Code is amended to read:

14136. No city or county shall establish equipment and personnel standards for the furnishing of nonemergency medical transportation services for eligible Medi-Cal beneficiaries which are in conflict with equipment and personnel standards for reimbursement established by the department pursuant to this chapter. No standard adopted by cities or counties shall require the use of ambulances to supply nonemergency medical transportation, where such standard would conflict with Section 14136.1. Nothing in

this section shall be construed to otherwise limit the authority of a city or county to license or regulate nonemergency medical transportation services so long as such regulation is not in conflict with standards established by the department.

Nothing in this section shall be construed to prevent a city or county from allowing both emergency and nonemergency medical transportation services to operate within its jurisdiction under a sole franchise when such a franchise has been determined necessary to assure the economic viability of such services.

Nothing in this section shall be construed to restrict the authority of local government to issue or deny licenses or permits to operate medical transportation services within its jurisdiction on the basis of need and necessity findings.

This section shall not become operative unless or until the department has established equipment and personnel standards which nonemergency medical transportation services must satisfy to qualify for reimbursement.

SEC. 2. Section 14136.1 is added to the Welfare and Institutions Code, to read:

14136.1. It is the intent of the Legislature that, in order for payment to be made to a medical transportation service provider, a patient who requires continuous intravenous medication, medical monitoring, or observation during transport and patients being transferred from an acute care facility to another acute care facility shall be transported by ambulance.

In other situations where nonemergency medical transportation is given, ambulances need not be used.

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## CHAPTER 1076

An act to amend Section 50570 of, and to add Section 11011.4 to, the Government Code, relating to surplus public property.

[Approved by Governor September 25, 1980. Filed with  
Secretary of State September 26, 1980.]

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

SECTION 1. Section 11011.4 is added to the Government Code, to read:

11011.4. Notwithstanding any provision to the contrary in Section 54222 or elsewhere, land may be transferred pursuant to subdivision (d) of Section 11011.1 to a local agency at the cost specified in subdivision (d) of Section 11011.1.

SEC. 2. Section 50570 of the Government Code is amended to read:

50570. Notwithstanding the provisions of Sections 54222 and 54223, a local agency, or any department, agency or authority thereof

may lease, sell or grant or otherwise transfer any real property, including air rights owned, held or controlled by it and found to be in excess of foreseeable needs under this article, to any housing corporation, limited dividend corporation or nonprofit corporation, upon such terms and conditions as any other provisions of law notwithstanding the local agency may deem to be best suited to the development of the parcel for housing available to persons and families of low or moderate income at affordable housing cost, as defined by Section 50052.5 of the Health and Safety Code. The deed or other instrument of conveyance shall provide that whenever the ownership of the land or the mortgagor corporation is no longer composed of a majority of the nonprofit or limited dividend sponsors, title to the land shall revert to the local agency. The deed or other instrument of conveyance shall also contain a recital that the grantor local agency or department, agency or authority thereof has made the finding required by this section and such recital shall be conclusive in favor of purchasers or encumbrancers for value.

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#### CHAPTER 1077

An act to add and repeal Section 6357.5 to the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor, to take effect immediately, tax levy.

[Approved by Governor September 25, 1980. Filed with  
Secretary of State September 26, 1980 ]

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

**SECTION 1.** Section 6357.5 is added to the Revenue and Taxation Code, to read:

6357.5. (a) There are exempted from the taxes imposed by this part the gross receipts from the sale of and storage, use, or other consumption in this state of gasohol.

(b) This exemption shall not apply to that amount of gross receipts in excess of the amount of gross receipts, subject to sales or use tax, that would result in a sales or use tax of:

(1) Five cents (\$.05) per gallon of gasohol sold on and after January 1, 1981, until January 1, 1982; and

(2) Four cents (\$.04) per gallon of gasohol sold on and after January 1, 1982, until January 1, 1983; and

(3) Three cents (\$.03) per gallon of gasohol sold on and after January 1, 1983, until January 1, 1984.

(c) For purposes of this section:

(1) "Gasohol" means a motor vehicle fuel composed of a blend of motor gasoline and not less than 10 percent alcohol. The alcohol component may be methanol or ethanol.

(2) Commencing on and after January 1, 1981, the alcohol

component in gasohol shall be distilled from agricultural commodities, renewable resources, or coal.

(3) Commencing on and after January 1, 1981, the alcohol in gasohol shall be rendered unsuitable for human consumption at the time of its manufacture or immediately thereafter.

(4) Gasohol shall be dyed a color that is different from the color of other gasolines. The State Board of Equalization shall designate the color of gasohol.

SEC. 2. The Legislature declares that in order to promote the use of a renewable energy source in California, it is in the public interest to encourage the participation of the private sector in the development of a production and distribution system for agriculture-related alcohol fuels. The development of alcohol fuels will reduce American dependence upon foreign sources of energy; provide a clean, efficient and renewable energy source that will contribute significantly to California's motor vehicle pollution reduction goals; aid California farmers in providing incentive to produce alternate cash crops and to use farmlands more efficiently; and encourage public participation in energy conservation, motor vehicle fuel economy, and pollution control.

SEC. 3. On or before May 10, 1981, 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. 4. 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, 1981, 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. 5. If Section 4 of this act does not become operative, the sums which would otherwise be required to be transferred pursuant to Section 4 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 1980-81 fiscal year pursuant to subdivision (e) (the Capital Outlay Fund for Public Higher Education) of Section 6217, and after allocations made for the 1980-81 fiscal year pursuant to subdivisions (a) to (d), inclusive, of Section 6217 of the Public Resources Code.

SEC. 6. 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, 1982, and on or before each May 15 thereafter.

SEC. 7. Section 1 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 December 31, 1983, deletes or extends such date.

SEC. 8. The Legislative Analyst shall report to the Legislature on January 1, 1984, on the economic impact of the sales and use tax exemption for gasohol.

SEC. 9. The sum of one million dollars (\$1,000,000) 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. 10. 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.

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## CHAPTER 1078

An act to amend Section 564 of the Code of Civil Procedure, and to add Sections 855 and 1006.5 to the Public Utilities Code, relating to public utilities.

[Approved by Governor September 25, 1980 Filed with  
Secretary of State September 26, 1980]

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

SECTION 1. Section 564 of the Code of Civil Procedure is amended to read:

564. A receiver may be appointed, in the manner provided in this chapter, by the court in which an action or proceeding is pending in any case in which such court is empowered by law to appoint a receiver.

In superior courts a receiver may be appointed by the court in which an action or proceeding is pending, or by a judge thereof, in the following cases:

1. In an action by a vendor to vacate a fraudulent purchase of property, or by a creditor to subject any property or fund to his claim, or between partners or others jointly owning or interested in any property or fund, on the application of the plaintiff, or of any party whose right to or interest in the property or fund, or the proceeds thereof, is probable, and where it is shown that the property or fund is in danger of being lost, removed, or materially injured;

2. In an action by a mortgagee for the foreclosure of his mortgage and sale of the mortgaged property, where it appears that the mortgaged property is in danger of being lost, removed, or materially injured, or that the condition of the mortgage has not been performed, and that the property is probably insufficient to

discharge the mortgage debt;

3. After judgment, to carry the judgment into effect;

4. After judgment, to dispose of the property according to the judgment, or to preserve it during the pendency of an appeal, or in proceedings in aid of execution, when an execution has been returned unsatisfied, or when the judgment debtor refuses to apply to his property in satisfaction of the judgment; or after sale of real property under execution of a judgment or pursuant to a decree of foreclosure and sale, during the period provided by law for the redemption thereof from sale, to collect rents thereon, and to expend and disburse such rents as may be directed by the court or otherwise provided by law;

5. In the cases when a corporation has been dissolved, or is insolvent, or in imminent danger of insolvency, or has forfeited its corporate rights;

6. In an action of unlawful detainer;

7. At the request of the Public Utilities Commission pursuant to Section 855 of the Public Utilities Code.

8. In all other cases where receivers have heretofore been appointed by the usages of courts of equity.

SEC. 2. Section 855 is added to the Public Utilities Code, to read:

855. Whenever the commission determines, after notice and hearing, that any water or sewer system corporation is unable or unwilling to adequately serve its ratepayers or has been actually or effectively abandoned by its owners, or is unresponsive to the the rules or orders of the commission, the commission may petition the superior court for the county within which the corporation has its principal office or place of business for the appointment of a receiver to assume possession of its property and to operate its system upon such terms and conditions as the court shall prescribe. The court may require, as a condition to the appointment of such receiver, that a sufficient bond be given by the receiver and conditioned upon compliance with the orders of the court and the commission, and the protection of all property rights involved. The court shall provide for disposition of the facilities and system in like manner as any other receivership proceeding in this state.

SEC. 3. Section 1006.5 is added to the Public Utilities Code, to read:

1006.5. The commission may, after notice and hearing, prior to authorizing any water or sewer system corporation having annual gross operating revenues under two hundred thousand dollars (\$200,000) to construct, operate, acquire, expand, or improve its line, plant, or system, prescribe, as a condition to granting such authority, that the corporation file with the commission a bond with sufficient sureties, subject to approval of the commission, in a reasonable amount not exceeding fifty thousand dollars (\$50,000) payable to the commission and conditioned on the corporation's furnishing adequate and sufficient service within its service area. The commission may, after notice and hearing, declare all or any part of the bond forfeited after finding that the corporation has willfully failed to furnish adequate and sufficient service without just cause or

excuse and that such failure has continued for an unreasonable duration. Such bond shall further provide for payment to the commission of the amount of any penalty assessed against the corporation pursuant to Section 2107. The commission may, upon petition by a water or sewer system corporation, for good cause, reduce the amount or eliminate the requirement of any bond which it has required to be filed pursuant to this section.

SEC. 4. The procedure provided in Section 855 of the Public Utilities Code is in addition to, and not in derogation of, the jurisdiction and authority of the Public Utilities Commission over public utilities. The appointment of a receiver pursuant to Section 855 shall not remove the affected water or sewer system corporation from the continuing jurisdiction of the commission.

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## CHAPTER 1079

An act to add Section 41813 to the Health and Safety Code, relating to air pollution, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1980. Filed with  
Secretary of State September 26, 1980 ]

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

SECTION 1. Section 41813 is added to the Health and Safety Code, to read:

41813. Notwithstanding any other provision of this division, in the San Bernardino County Air Pollution Control District, Group 2 solid waste, as defined in Section 2521 of Title 23 of the California Administrative Code, for a period not to exceed six months from the effective date of this section, may be disposed of by means of an air curtain destructor. The authority provided by this section shall apply only to an existing solid waste disposal site in the upper desert area which receives less than 50 tons of solid waste for disposal per day. The use of the air curtain destructor shall be monitored by the San Bernardino County Air Pollution Control District and the board. Within nine months after the effective date of this section, the district shall file a report with the County of San Bernardino and the board regarding the extent to which the air curtain destructor meets the emission rules, regulations, and orders of the district and board.

At the end of the six-month experimental period, the air curtain destructor may continue to be used if the state board makes a finding that the public health and safety will not be adversely affected by continued use. The state board, in cooperation with San Bernardino County, shall establish a list of toxic materials that will be removed from the solid waste prior to use of the air curtain destructor.

There shall be no liability on the part of the state board for any injury occurring as a result of the use of the air curtain destructor under the provisions of this section.

SEC. 2. The Legislature finds and declares that, because of the unique circumstances in the County of San Bernardino, the need to provide cost-effective solid waste disposal for remote, sparsely populated desert areas cannot be adequately addressed by a general law within the meaning of Section 16 of Article IV of the California Constitution and that the enactment of this act as a special law is necessary to provide for the health, safety, and welfare of the residents 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.

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 San Bernardino County to begin a pilot program at the beginning of the 1980-81 fiscal year, it is necessary that this act take effect immediately.

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## CHAPTER 1080

An act to add Chapter 3.5 (commencing with Section 1543) to Title 12 of Part 3 of the Penal Code, relating to medical records, and making an appropriation therefor.

[Approved by Governor September 25, 1980. Filed with  
Secretary of State September 26, 1980]

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

SECTION 1. Chapter 3.5 (commencing with Section 1543) is added to Title 12 of Part 3 of the Penal Code, to read:

### CHAPTER 3.5. DISCLOSURE OF MEDICAL RECORDS TO LAW ENFORCEMENT AGENCIES

1543. (a) Records of the identity, diagnosis, prognosis, or treatment of any patient maintained by a health care facility which are not privileged records required to be secured by the special master procedure in Section 1524, or records required by law to be confidential, shall only be disclosed to law enforcement agencies pursuant to this section:

(1) In accordance with the prior written consent of the patient;  
or

(2) If authorized by an appropriate order of a court of competent jurisdiction in the county where the records are located, granted after application showing good cause therefor. In assessing good cause, the court:

(A) Shall weigh the public interest and the need for disclosure against the injury to the patient, to the physician-patient relationship, and to the treatment services;

(B) Shall determine that there is a reasonable likelihood that the records in question will disclose material information or evidence of substantial value in connection with the investigation or prosecution; or

(3) By a search warrant obtained pursuant to Section 1524.

(b) The prohibitions of this section continue to apply to records concerning any individual who has been a patient, irrespective of whether or when he ceases to be a patient.

(c) Except where an extraordinary order under Section 1544 is granted or a search warrant is obtained pursuant to Section 1524, any health care facility whose records are sought under this chapter shall be notified of the application and afforded an opportunity to appear and be heard thereon.

(d) Both disclosure and dissemination of any information from the records shall be limited under the terms of the order to assure that no information will be unnecessarily disclosed and that dissemination will be no wider than necessary.

This chapter shall not apply to investigations of fraud in the provision or receipt of Medi-Cal benefits, investigations of insurance fraud performed by the Department of Insurance or the California Highway Patrol and investigations and research regarding occupational health and safety performed by or under agreement with the Department of Industrial Relations. Access to medical records in such investigations shall be governed by all laws in effect at the time access is sought.

(e) Nothing in this chapter shall prohibit disclosure by a medical facility or medical provider of information contained in medical records where disclosure to specific agencies is mandated by statutes or regulations.

(f) This chapter shall not be construed to authorize disclosure of privileged records to law enforcement agencies by the procedure set forth in this chapter, where such privileged records are required to be secured by the special master procedure set forth in subdivision (c) of Section 1524 or required by law to be confidential.

1544. A law enforcement agency applying for disclosure of patient records under Section 1543 may petition the court for an extraordinary order delaying the notice of the application to the health care facility required by subdivision (f) of Section 1543 for a period of 30 days, upon a showing of good cause to believe that notice would seriously impede the investigation.

1545. For the purposes of this chapter:

(a) "Health care facility" means any clinic, health dispensary, or

health facility, licensed pursuant to Division 2 (commencing with Section 1200) of the Health and Safety Code, or any mental hospital, drug abuse clinic, or detoxification center.

(b) "Law enforcement agency" means the Attorney General of the State of California, every district attorney, and every agency of the State of California expressly authorized by statute to investigate or prosecute law violators.

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## CHAPTER 1081

An act to amend Sections 61, 62, 155.2, 170, 276, 402.5, 405.5, 480, 482, 531.2, 1640, and 4836 of, to add Sections 65.1, 480.2, 482.1, and 4845 to, to repeal and add Section 65 of, and to add and repeal Section 619.15 of, and to repeal Sections 405.6 and 1610 of, and to repeal and add Section 1641 to, the Revenue and Taxation Code, relating to taxation, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1980 Filed with  
Secretary of State September 26, 1980.]

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

SECTION 1. Section 61 of the Revenue and Taxation Code is amended to read:

61. Except as otherwise provided in Section 62, change in ownership, as defined in Section 60, includes, but is not limited to:

(a) The creation, renewal, sublease, assignment, or other transfer of the right to produce or extract oil, gas, or other minerals for so long as they can be produced or extracted in paying quantities. The balance of the property, other than the mineral rights, shall not be reappraised pursuant to this section.

(b) The creation, renewal, sublease, or assignment of a taxable possessory interest in tax exempt real property for any term.

(c) (1) The creation of a leasehold interest in taxable real property for a term of 35 years or more (including renewal options), the termination of a leasehold interest in taxable real property which had an original term of 35 years or more (including renewal options), and any transfer of a leasehold interest having a remaining term of 35 years or more (including renewal options); or (2) any transfer of a lessor's interest in taxable real property subject to a lease with a remaining term (including renewal options) of less than 35 years.

Only that portion of a property subject to such lease or transfer shall be considered to have undergone a change of ownership.

For the purpose of this subdivision, for 1979-80 and each year thereafter, it shall be conclusively presumed that all homes eligible for the homeowners' exemption, other than mobilehomes located on rented or leased land and subject to taxation pursuant to Part 13

(commencing with Section 5800), which are on leased land have a renewal option of at least 35 years on the lease of such land, whether or not in fact such renewal option exists in any contract or agreement.

(d) The creation, transfer, or termination of any joint tenancy interest, except as provided in subdivision (f) of Section 62, Section 63 and Section 65.

(e) The creation, transfer, or termination of any tenancy-in-common interest, except as provided in subdivision (a) of Section 62 and in Section 63.

(f) Any vesting of the right to possession or enjoyment of a remainder or reversionary interest which occurs upon the termination of a life estate or other similar precedent property interest, except as provided in subdivision (d) of Section 62 and in Section 63.

(g) Any interests in real property which vest in persons other than the trustor (or, pursuant to Section 63, his spouse) when a revocable trust becomes irrevocable.

(h) The transfer of stock of a cooperative housing corporation, as defined in Section 17265, vested with legal title to real property which conveys to the transferee the exclusive right to occupancy and possession of such property, or a portion thereof.

(i) The transfer of any interest in real property between a corporation, partnership, or other legal entity and a shareholder, partner, or any other person.

SEC. 2. Section 62 of the Revenue and Taxation Code is amended to read:

62. Change in ownership shall not include:

(a) Any transfer between coowners which results in a change in the method of holding title to the real property without changing the proportional interests of the coowners, such as a partition of a tenancy in common.

(b) Any transfer for the purpose of perfecting title to the property.

(c) (1) The creation, assignment, termination, or reconveyance of a security interest; or (2) the substitution of a trustee under a security instrument.

(d) Any transfer into a trust for so long as (1) the transferor is the present beneficiary of the trust, or (2) the trust is revocable; or any transfer by a trustee of such a trust described in either clause (1) or (2) back to the trustor; or, any creation or termination of a trust in which the trustor retains the reversion and in which the interest of others does not exceed 12 years duration.

(e) Any transfer by an instrument whose terms reserve to the transferor an estate for years or an estate for life; however, the termination of such an estate for years or estate for life shall constitute a change in ownership, except as provided in subdivision (d) of Section 62 and in Section 63.

(f) The creation or transfer of a joint tenancy interest if the

transferor, after such creation or transfer, is one of the joint tenants as provided in subdivision (b) of Section 65.

(g) Any transfer of a lessor's interest in taxable real property subject to a lease with a remaining term (including renewal options) of 35 years or more. For the purpose of this subdivision, for 1979-80 and each year thereafter, it shall be conclusively presumed that all homes eligible for the homeowners' exemption, other than mobilehomes located on rented or leased land and subject to taxation pursuant to Part 13 (commencing with Section 5800), which are on leased land have a renewal option of at least 35 years on the lease of such land, whether or not in fact such renewal option exists in any contract or agreement.

(h) Any purchase, redemption or other transfer of the shares or units of participation of a group trust, pooled fund, common trust fund, or other collective investment fund established by a financial institution.

(i) Any transfer of stock or membership certificate in a housing cooperative which was financed under one mortgage provided such mortgage was insured under Section 213, 221(d)(3), 221(d)(4), or 236 of the National Housing Act, as amended, or such housing cooperative was financed or assisted pursuant to Section 514, 515, or 516 of the Housing Act of 1949 or Section 202 of the Housing Act of 1959, or the housing cooperative was financed by a direct loan from the California Housing Finance Agency, and provided that the regulatory and occupancy agreements were approved by the governmental lender or insurer, and provided that the transfer is to the housing cooperative or to a person or family qualifying for purchase by reason of limited income. Any subsequent transfer from the housing cooperative to a person or family not eligible for state or federal assistance in reduction of monthly carrying charges or interest reduction assistance by reason of the income level of such person or family shall constitute a change of ownership.

(j) Any transfer between coowners in any property which was held by them as coowners for all or part of the period between March 1, 1975, and March 1, 1980, and which was eligible for a homeowner's exemption during the period of the coownership. Any such transferee whose interest was revalued in contravention of the provisions of this subdivision may obtain a reversal of such revaluation with respect to the 1980-81 assessment year and thereafter, upon application to the county assessor of the county in which the property is located filed on or before February 28, 1981.

SEC. 2.3. Section 62 of the Revenue and Taxation Code is amended to read:

62. Change in ownership shall not include:

(a) Any transfer between coowners which results in a change in the method of holding title to the real property without changing the proportional interests of the coowners, such as a partition of a tenancy in common, or any transfer of title between an individual and a legal entity or between legal entities, such as from a cotenancy

to a partnership, a partnership to a corporation, a trust to a cotenancy, or an individual to a legal entity, which results solely in a change in the method of holding title and in which the proportional interests of the transferors and transferees, whether represented by stock, partnership interest, or otherwise, remain the same after the transfer.

(b) Any transfer for the purpose of perfecting title to the property.

(c) (1) The creation, assignment, termination, or reconveyance of a security interest; or (2) the substitution of a trustee under a security instrument.

(d) Any transfer into a trust for so long as (1) the transferor is the present beneficiary of the trust, or (2) the trust is revocable; or any transfer by a trustee of such a trust described in either clause (1) or (2) back to the trustor; or, any creation or termination of a trust in which the trustor retains the reversion and in which the interest of others does not exceed 12 years duration.

(e) Any transfer by an instrument whose terms reserve to the transferor an estate for years or an estate for life; however, the termination of such an estate for years or estate for life shall constitute a change in ownership, except as provided in subdivision (d) of Section 62 and in Section 63.

(f) The creation or transfer of a joint tenancy interest if the transferor, after such creation or transfer, is one of the joint tenants as provided in subdivision (b) of Section 65.

(g) Any transfer of a lessor's interest in taxable real property subject to a lease with a remaining term (including renewal options) of 35 years or more. For the purpose of this subdivision, for 1979-80 and each year thereafter, it shall be conclusively presumed that all homes eligible for the homeowners' exemption, other than mobilehomes located on rented or leased land and subject to taxation pursuant to Part 13 (commencing with Section 5800), which are on leased land have a renewal option of at least 35 years on the lease of such land, whether or not in fact such renewal option exists in any contract or agreement.

(h) Any purchase, redemption or other transfer of the shares or units of participation of a group trust, pooled fund, common trust fund, or other collective investment fund established by a financial institution.

(i) Any transfer of stock or membership certificate in a housing cooperative which was financed under one mortgage provided such mortgage was insured under Section 213, 221(d)(3), 221(d)(4), or 236 of the National Housing Act, as amended, or such housing cooperative was financed or assisted pursuant to Section 514, 515, or 516 of the Housing Act of 1949 or Section 202 of the Housing Act of 1959, or the housing cooperative was financed by a direct loan from the California Housing Finance Agency, and provided that the regulatory and occupancy agreements were approved by the governmental lender or insurer, and provided that the transfer is to

the housing cooperative or to a person or family qualifying for purchase by reason of limited income. Any subsequent transfer from the housing cooperative to a person or family not eligible for state or federal assistance in reduction of monthly carrying charges or interest reduction assistance by reason of the income level of such person or family shall constitute a change of ownership.

(j) Any transfer between coowners in any property which was held by them as coowners for all or part of the period between March 1, 1975, and March 1, 1980, and which was eligible for a homeowner's exemption during the period of the coownership. Any such transferee whose interest was revalued in contravention of the provisions of this subdivision shall obtain a reversal of such revaluation with respect to the 1980-81 assessment year and thereafter, upon application to the county assessor of the county in which the property is located filed on or before February 28, 1981.

SEC. 2.5. Section 65 of the Revenue and Taxation Code is repealed.

SEC. 3. Section 65 is added to the Revenue and Taxation Code, to read:

65. (a) The creation, transfer, or termination of any joint tenancy is a change in ownership except as provided in this section, Section 62, and Section 63. Upon a change in ownership of a joint tenancy interest only the interest or portion which is thereby transferred from one owner to another owner shall be reappraised.

(b) There shall be no change in ownership upon the creation or transfer of a joint tenancy interest if the transferor or transferors, after such creation or transfer, are among the joint tenants. Upon the creation of a joint tenancy interest described in this subdivision, the transferor or transferors shall be the "original transferor or transferors" for purposes of determining the property to be reappraised on subsequent transfers. The spouses of original transferors shall also be considered original transferors within the meaning of this section.

(c) Upon the termination of an interest in any joint tenancy described in subdivision (b), the entire portion of the property held by the original transferor or transferors prior to the creation of the joint tenancy shall be reappraised unless it vests, in whole or in part, in any remaining original transferor, in which case there shall be no reappraisal. Upon the termination of the interest of the last surviving original transferor, there shall be a reappraisal of the interest then transferred and all other interests in the properties held by all original transferors which were previously excluded from reappraisal pursuant to this section.

(d) Upon the termination of an interest held by other than the original transferor in any joint tenancy described in subdivision (b), there shall be no reappraisal if the entire interest is transferred either to an original transferor or to all remaining joint tenants.

SEC. 3.5. Section 65.1 is added to the Revenue and Taxation Code, to read:

65.1. (a) Except as provided in Section 65, when an undivided interest in a portion of real property is purchased or changes ownership, only the interest or portion transferred shall be reappraised. A purchase or change in ownership of an undivided interest with a market value of less than 5 percent of the value of the total property shall not be reappraised if the market value of the interest transferred is less than ten thousand dollars (\$10,000) provided, however, that transfers during any one assessment year shall be cumulated for the purpose of determining the value transferred.

(b) If a unit or lot within a cooperative housing corporation, community apartment project, condominium, planned unit development, shopping center, industrial park, or other residential, commercial, or industrial land subdivision complex with common areas or facilities is purchased or changes ownership, then only the unit or lot transferred and the share in the common area reserved as an appurtenance of such unit or lot shall be reappraised.

Notwithstanding any other provision of law, the increase in property taxes resulting from such reappraisal shall be applied by the owner of such property to the tenant-shareholder, lessee, or occupant of such individual unit or lot only, and shall not be prorated among all other units or lots of such property.

SEC. 4. Section 155.2 of the Revenue and Taxation Code is amended to read:

155.2. For the 1979–80 fiscal year or the 1980–81 fiscal year, the time fixed for the performance of any act by the assessor relating to the preparation of the 1979–80 fiscal year assessment roll shall be not later than August 1, 1979, and the preparation of the 1980–81 fiscal year assessment roll shall be not later than August 1, 1980.

For the 1979–80 fiscal year or the 1980–81 fiscal year, in addition to the extension of time permitted by Section 155, the board or its secretary may grant an extension of an additional 30 days for the performance of any act by the assessor, auditor, tax collector, or county board.

SEC. 4.5. Section 170 of the Revenue and Taxation Code is amended in read:

170. (a) Notwithstanding any provision of law to the contrary, the board of supervisors may, by ordinance, provide that every assessee of any taxable property, or any person liable for the taxes thereon, whose property was damaged or destroyed without his fault, may apply for reassessment of such property as provided herein.

To be eligible for reassessment the damage or destruction to the property must have been caused by any of the following:

(1) A major misfortune or calamity, in an area or region subsequently proclaimed by the Governor to be in a state of disaster, if such property was damaged or destroyed by the major misfortune or calamity which caused the Governor to proclaim the area or region to be in a state of disaster. As used in this paragraph “damage”

includes a diminution in the value of property as a result of restricted access to the property where such restricted access was caused by the major misfortune or calamity.

(2) A misfortune or calamity.

(3) A misfortune or calamity which, with respect to a possessory interest in land owned by the state or federal government has caused the permit or other right to enter upon the land to be suspended or restricted. As used in this paragraph, "misfortune or calamity" includes a drought condition such as existed in this state in 1976 and 1977.

The application for reassessment may be filed within the time specified in the ordinance, or, if no time is specified, within 60 days of such misfortune or calamity, by delivering to the assessor a written application requesting reassessment showing the condition and value, if any, of the property immediately after the damage or destruction, and the dollar amount of the damage. The application shall be executed under penalty of perjury, or if executed outside the State of California, verified by affidavit.

An ordinance may be made applicable to a major misfortune or calamity specified in paragraph (1) or to any misfortune or calamity specified in paragraph (2), or to both, as the board of supervisors determines. An ordinance may not be made applicable to a misfortune or calamity specified in paragraph (3), unless an ordinance making paragraph (2) applicable is operative in the county. The ordinance may specify a period of time within which the ordinance shall be effective, and, if no period of time is specified, it shall remain in effect until repealed.

(b) Upon receiving a proper application, the assessor shall appraise the property and determine separately the full cash value of land, improvements and personalty immediately before and after the damage or destruction. If the sum of the full cash values of the land, improvements and personalty before the damage or destruction exceeds the sum of the values after the damage by five thousand dollars (\$5,000) or more, the assessor shall also separately determine the percentage reductions in value of land, improvements and personalty due to the damage or destruction. The assessor shall reduce the values appearing on the assessment roll by the percentages of damage or destruction computed pursuant to this subdivision, and the taxes due on the property shall be adjusted as provided in subdivision (e); provided, however, that the amount of the reduction shall not exceed the actual loss.

(c) The assessor shall notify the applicant in writing of the amount of the proposed reassessment. The notice shall state that the applicant may appeal the proposed reassessment to the local board of equalization within 14 days of the date of mailing the notice. If an appeal is requested within the 14-day period, the board shall hear and decide the matter as if the proposed reassessment had been entered on the roll as an assessment made outside the regular assessment period. The decision of the board regarding the damaged

value of the property shall be final, provided that a decision of the local board of equalization regarding any reassessment made pursuant to this section shall create no presumption as regards the value of the affected property subsequent to the date of the damage.

Those reassessed values resulting from reductions in full cash value of amounts, as determined above, shall be forwarded to the auditor by the assessor or the clerk of the local equalization board, as the case may be. The auditor shall enter the reassessed values on the roll. After being entered on the roll, such reassessed values shall not be subject to review, except by a court of competent jurisdiction.

(d) If no such application is made and the assessor determines that within the preceding six months a property has suffered damage caused by misfortune or calamity, which may qualify the property owner for relief under an ordinance adopted under this section, the assessor shall provide the last known owner of the property with an application for reassessment. The property owner shall file the completed application within 30 days of notification by the assessor but in no case more than six months after the occurrence of said damage. Upon receipt of a properly completed, timely filed application, the property shall be reassessed in the same manner as required in subdivision (b).

(e) The tax rate fixed for property on the roll on which the property so reassessed appeared at the time of the misfortune or calamity, shall be applied to the amount of the reassessment as determined in accordance with this section and the assessee shall be liable for: (1) a prorated portion of the taxes that would have been due on the property for the current fiscal year had the misfortune or calamity not occurred, such proration to be determined on the basis of the number of months in the current fiscal year prior to the misfortune or calamity; plus, (2) a proration of the tax due on the property as reassessed in its damaged or destroyed condition, such proration to be determined on the basis of the number of months in the fiscal year after the damage or destruction, including the month in which the damage was incurred. If the damage or destruction occurred after March 1 and before the beginning of the next fiscal year, the reassessment shall be utilized to determine the tax liability for the next fiscal year provided, however, if the property is fully restored during the next fiscal year, taxes due for that year shall be prorated based on the number of months in the year before and after the completion of restoration.

(f) Any tax paid in excess of the total tax due shall be refunded to the taxpayer pursuant to Chapter 5 (commencing with Section 5096) of Part 9, as an erroneously collected tax or by order of the board of supervisors without the necessity of a claim being filed pursuant to Chapter 5.

(g) The assessment of the property, in its damaged condition, as determined by this section, shall be reviewed at the lien date next following the date of the misfortune or calamity and shall be assessed in the same manner as prescribed by law for any other assessable

property.

(h) This section applies to all counties, whether operating under a charter or under the general laws of this state.

(i) Any ordinance in effect pursuant to Section 155.1, 155.13, or 155.14 shall remain in effect according to its terms as if such ordinances were adopted pursuant to this section, subject to the limitations of subdivision (b).

SEC. 4.6. Section 276 of the Revenue and Taxation Code, as amended by Section 1 of Chapter 172 of the Statutes of 1980, is amended to read:

276. (a) A claimant for the disabled veterans' property tax exemption for the 1976-77 fiscal year or any year thereafter may qualify for a partial exemption if such claimant fails to file the required affidavit with the assessor by 5:00 p.m. on April 15 of the calendar year in which the fiscal year begins, but files such claims on or before the following December 1. Commencing with the 1979-80 assessment year, late-filed claims for the ten thousand dollar (\$10,000) exemption provided in Section 205.5 shall receive the lesser of eight thousand dollars (\$8,000) or 80 percent of the assessed value of the dwelling. Late-filed claims for the fifteen thousand dollar (\$15,000) exemption provided in Section 205.5, when filed in conjunction with a late-filed claim for the ten thousand dollar (\$10,000) exemption, shall receive the lesser of twelve thousand dollars (\$12,000) or 80 percent of the assessed value of the dwelling. Late-filed claims for the fifteen thousand dollar (\$15,000) exemption, filed in conjunction with timely filed claims for the ten thousand dollar (\$10,000) exemption, shall receive the lesser of fourteen thousand dollars (\$14,000) or ten thousand dollars (\$10,000) plus 80 percent of the assessed value of the dwelling over ten thousand dollars (\$10,000).

(b) On such claims filed pursuant to subdivision (a) after November 15, this exemption may be applied to the second installment, and if applied to the second installment, the first installment will still become delinquent on December 10, and a 6-percent penalty will attach if the tax amount due is not paid.

If this exemption is applied to the second installment and if both installments are paid on or before December 10, or if the reduction in taxes from this exemption exceeds the amount of taxes due on the second installment, a refund shall be made to the taxpayer upon a claim submitted by the taxpayer to the auditor.

(c) This section shall be operative for the 1980-81 assessment years and shall be repealed as of December 31, 1981.

SEC. 4.7. Section 276 of the Revenue and Taxation Code, as amended by Section 2 of Chapter 172 of the Statutes of 1980, is amended to read:

276. (a) A claimant for the disabled veterans' property tax exemption for the 1976-77 fiscal year or any year thereafter may qualify for a partial exemption if such claimant fails to file the required affidavit with the assessor by 5:00 p.m. on April 15 of the

calendar year in which the fiscal year begins, but files such claims on or before the following December 1. Commencing with the 1979-80 assessment year, late-filed claims for the forty thousand dollar (\$40,000) exemption provided in Section 205.5 shall receive the lesser of thirty-two thousand dollars (\$32,000) or 80 percent of the full value of the dwelling. Late-filed claims for the sixty thousand dollar (\$60,000) exemption provided in Section 205.5, when filed in conjunction with the late-filed claim for the forty thousand dollar (\$40,000) exemption, shall receive the lesser of forty-eight thousand dollars (\$48,000) or 80 percent of the full value of the dwelling. Late-filed claims for the sixty thousand dollar (\$60,000) exemption, when filed in conjunction with timely filed claims for the forty thousand dollar (\$40,000) exemption, shall receive the lesser of fifty-six thousand dollars (\$56,000) or forty thousand dollars (\$40,000) plus 80 percent of the full value of the dwelling over forty thousand dollars (\$40,000).

(b) On such claims filed pursuant to subdivision (a) after November 15, this exemption may be applied to the second installment, and if applied to the second installment, the first installment will still become delinquent on December 10, and a 6-percent penalty will attach if the tax amount due is not paid.

If this exemption is applied to the second installment and if both installments are paid on or before December 10, or if the reduction in taxes from this exemption exceeds the amount of taxes due on the second installment, a refund shall be made to the taxpayer upon a claim submitted by the taxpayer to the auditor.

(c) This section shall be operative on January 1, 1981, and shall be applied with regard to claims filed for the 1981-82 fiscal year and fiscal years thereafter.

SEC. 4.8. Section 402.5 of the Revenue and Taxation Code is amended to read:

402.5. When valuing property by comparison with sales of other properties, in order to be considered comparable, the sales shall be sufficiently near in time to the valuation date, and the properties sold shall be located sufficiently near the property being valued, and shall be sufficiently alike in respect to character, size, situation, usability, zoning or other legal restriction as to use unless rebutted pursuant to Section 402.1, to make it clear that the properties sold and the properties being valued are comparable in value and that the cash equivalent price realized for the properties sold may fairly be considered as shedding light on the value of the property being valued. "Near in time to the valuation date" does not include any sale more than 90 days after the lien date.

SEC. 5. Section 405.5 of the Revenue and Taxation Code is amended to read:

405.5. The assessor shall periodically appraise all property not subject to the provisions of Article XIII A of the Constitution to substantiate the judgment of its full cash value or, when provided for by law, its restricted value for uniform assessment purposes.

SEC. 6. Section 405.6 of the Revenue and Taxation Code is repealed.

SEC. 7. Section 480 of the Revenue and Taxation Code is amended to read:

480. Whenever any change in ownership of real property or of a mobilehome subject to local property taxation occurs, the transferee shall file a signed change in ownership statement in the county where the real property or mobilehome is located, as provided for in subdivision (b).

(a) Except as provided in subdivision (b), the change in ownership statement shall be declared to be true under penalty of perjury and shall give such information relative to the real property or mobilehome acquisition transaction as the board shall prescribe after consultation with the California Assessors' Association. Such information shall include, but not be limited to, a description of the property, the parties to the transaction, the date of acquisition, the amount, if any, of the consideration paid for the property, whether paid in money or otherwise, and the terms of the transaction. The change in ownership statement shall not include any question which is not germane to the assessment function. The statement shall contain a notice that is printed, with the title in at least 14-point boldface type and the body in at least 10-point boldface type, in the following form:

**“Important Notice”**

“The law requires any transferee acquiring an interest in real property or mobilehome subject to local property taxation to file a change in ownership statement with the county recorder or assessor. The change in ownership statement must be filed at the time of recording or, if the transfer is not recorded, within 45 days of the date of the change in ownership. The failure to file a change in ownership statement within 45 days from the date of a written request by the assessor results in a penalty of one hundred dollars (\$100) or 10 percent of the current year's taxes on the real property or mobilehome, whichever is greater. This penalty will be added to the roll and shall be treated and collected like, and shall be subject to the same penalties for delinquency as, all other taxes on the roll on which it is entered.”

(b) The change in ownership statement may be attached to or accompany the deed or other document evidencing a change in ownership filed for recording, in which case such notice, declaration under penalty of perjury, and any information contained in the deed or other transfer document otherwise required by subdivision (a) may be omitted.

(c) If the document evidencing a change in ownership is recorded in the county recorder's office, then the statement shall be filed with the recorder at the time of recordation. However, the recordation of the deed or other document evidencing a change in ownership shall

not be denied or delayed because of the failure to file a change in ownership statement, or filing of an incomplete statement, in accordance with this subdivision. If the document evidencing a change in ownership is not recorded or is recorded without the concurrent filing of a change in ownership statement, then the statement shall be filed with the assessor no later than 45 days from the date the change in ownership occurs.

(d) Whenever a change in ownership statement is filed with the county recorder's office, the recorder shall transmit, as soon as possible, the original statement or a true copy thereof to the assessor along with a copy of every recorded document as required by Section 255.7.

(e) The change in ownership statement may be filed with the assessor through the United States mail, properly addressed with the postage prepaid.

(f) In the case of a corporate transferee of property, the change in ownership statement shall be signed either by an officer of the corporation or an employee or agent who has been designated in writing by the board of directors to sign such statements on behalf of the corporation.

(g) No person or entity acting for or on behalf of the parties to a transfer of real property shall incur liability for the consequences of assistance rendered to the transferee in preparation for any change in ownership statement, and no action may be brought or maintained against any such person or entity as a result of such assistance. Nothing in this section shall create a duty, either directly or by implication, that such assistance be rendered by any person or entity acting for or on behalf of parties to a transfer of real property.

SEC. 7.5. Section 480 of the Revenue and Taxation Code is amended to read:

480. Whenever any change in ownership of real property or of a mobilehome subject to local property taxation and which is assessed by the county assessor occurs, the transferee shall file a signed change in ownership statement in the county where the real property or mobilehome is located, as provided for in subdivision (b).

(a) Except as provided in subdivision (b), the change in ownership statement shall be declared to be true under penalty of perjury and shall give such information relative to the real property or mobilehome acquisition transaction as the board shall prescribe after consultation with the California Assessors' Association. Such information shall include, but not be limited to, a description of the property, the parties to the transaction, the date of acquisition, the amount, if any, of the consideration paid for the property, whether paid in money or otherwise, and the terms of the transaction. The change in ownership statement shall not include any question which is not germane to the assessment function. The statement shall contain a notice that is printed, with the title in at least 14-point boldface type and the body in at least 10-point boldface type, in the

following form:

**“Important Notice”**

“The law requires any transferee acquiring an interest in real property or mobilehome subject to local property taxation and which is assessed by the county assessor to file a change in ownership statement with the county recorder or assessor. The change in ownership statement must be filed at the time of recording or, if the transfer is not recorded, within 45 days of the date of the change in ownership. The failure to file a change in ownership statement within 45 days from the date of a written request by the assessor results in a penalty of one hundred dollars (\$100) or 10 percent of the current year’s taxes on the real property or mobilehome, whichever is greater. This penalty will be added to the roll and shall be treated and collected like, and shall be subject to the same penalties for delinquency as, all other taxes on the roll on which it is entered.”

(b) The change in ownership statement may be attached to or accompany the deed or other document evidencing a change in ownership filed for recording, in which case such notice, declaration under penalty of perjury, and any information contained in the deed or other transfer document otherwise required by subdivision (a) may be omitted.

(c) If the document evidencing a change in ownership is recorded in the county recorder’s office, then the statement shall be filed with the recorder at the time of recordation. However, the recordation of the deed or other document evidencing a change in ownership shall not be denied or delayed because of the failure to file a change in ownership statement, or filing of an incomplete statement, in accordance with this subdivision. If the document evidencing a change in ownership is not recorded or is recorded without the concurrent filing of a change of ownership statement, then the statement shall be filed with the assessor no later than 45 days from the date the change in ownership occurs.

(d) Whenever a change in ownership statement is filed with the county recorder’s office, the recorder shall transmit, as soon as possible, the original statement or a true copy thereof to the assessor along with a copy of every recorded document as required by Section 255.7.

(e) The change in ownership statement may be filed with the assessor through the United States mail, properly addressed with the postage prepaid.

(f) In the case of a corporate transferee of property, the change in ownership statement shall be signed either by an officer of the corporation or an employee or agent who has been designated in writing by the board of directors to sign such statements on behalf of the corporation.

(g) No person or entity acting for or on behalf of the parties to a transfer of real property shall incur liability for the consequences of

assistance rendered to the transferee in preparation for any change in ownership statement, and no action may be brought or maintained against any such person or entity as a result of such assistance. Nothing in this section shall create a duty, either directly or by implication, that such assistance be rendered by any person or entity acting for or on behalf of parties to a transfer of real property.

(h) A change in ownership statement shall be filed whenever there is a change in control of any corporation, or a change in the majority ownership of a partnership or other legal entity, as defined in subdivision (c) of Section 64 of this code.

(i) In the case of a partnership or other legal entity, the statement shall be signed by an officer, partner, or an employee or agent who has been designated in writing by the partnership or legal entity.

(j) In the case of a change in ownership where the transferee is not locally assessed, no change in ownership statement is required.

Within 45 days of the change in control, the statement shall be filed with the assessor of every county in which the corporation, partnership, or other legal entity owns real property, or, at the election of the taxpayer, with the board at its office in Sacramento. If the statement is filed with the board, it shall list all counties in which the corporation, partnership, or legal entity owns real property.

If the corporation, partnership, or legal entity fails to file such statement within 45 days of the change in control, a penalty of 10 percent of the current year's taxes shall be added to the assessment made on the current roll after a new base year value reflecting the change in control has been established.

The assessor may inspect any and all records and documents of a corporation, partnership, or legal entity to ascertain whether a change in control as defined in subdivision (c) of Section 64 has occurred. The corporation, partnership, or legal entity shall upon request, make such documents available to the assessor during normal business hours.

SEC. 8. Section 480.2 is added to the Revenue and Taxation Code, to read:

480.2. In the event of a change in ownership occasioned by death, the person who succeeds to the decedent's property shall file the statement within 45 days from the date the property is distributed to such person.

SEC. 9. Section 482 of the Revenue and Taxation Code is amended to read:

482. (a) The assessor may request a change in ownership statement from any person who was the transferee of any interest in real property or mobilehome, whether or not that transfer is within the definition of change in ownership in Chapter 2 (commencing with Section 60) of Part 0.5. If any person who is requested by the assessor or, for property which is state assessed, by the board to make a change in ownership statement fails to file such statement within 45 days from the date of a written request, a penalty of the greater

of one hundred dollars (\$100) or 10 percent of the current year's taxes on the real property or mobilehome, but not to exceed two thousand five hundred dollars (\$2,500) if such failure to file was not willful, shall, except as otherwise provided in this section, be added to the assessment made on the current secured roll. The penalty shall apply for failure to file a complete change in ownership statement notwithstanding the fact that the assessor determines that no change in ownership has occurred as defined in Chapter 2 (commencing with Section 60) of Part 0.5 of Division 1. The penalty may also be applied if after a request the transferee files an incomplete statement and does not supply the missing information upon a second request.

(b) The term "current year's taxes" as used in this section means the taxes that are due for the fiscal year in which the 45-day period expires.

(c) The penalty for any one transfer can be imposed only one time, even though the assessor may initiate a request as often as he deems necessary.

(d) The penalty shall be added to the roll in the same manner as a special assessment and shall be treated and collected like, and shall be subject to the same penalties for the delinquency as, all other taxes on the roll in which it is entered.

(1) When the transfer to be reported under this section is of a portion of a property or parcel appearing on the roll during the fiscal year in which the 45-day period expires, the current year's taxes shall be prorated so the penalty will be computed on the proportion of property which has transferred. After such proration has occurred, the penalty may be entered either on the current year's unsecured roll in the name of the transferee or on the current or subsequent year's secured roll as a lien against the portion transferred.

(2) Any penalty added to the roll pursuant to this section between March 1 and June 30 of any fiscal year may be entered either on the unsecured roll or on the current or subsequent year's secured roll as a lien against the property transferred.

(3) If the property is transferred or conveyed to a bona fide purchaser for value or becomes subject to a lien of a bona fide encumbrancer for value after the transfer of ownership resulting in the imposition of the penalty and before the enrollment of the penalty, such penalty shall be entered on the unsecured roll in the name of the transferee whose failure to file the change in ownership statement resulted in the imposition of the penalty.

(e) When a penalty imposed pursuant to this section is entered on the unsecured roll, the tax collector may immediately file a certificate authorized by Section 2191.3.

(f) Notice of any penalty added to either the secured or unsecured roll pursuant to this section shall be mailed by the assessor to the transferee at his address contained in any recorded instrument or document evidencing a transfer of an interest in real property or mobilehome or at any address reasonably known to the assessor.

SEC. 10. Section 482.1 is added to the Revenue and Taxation

Code, to read:

482.1. If there is a failure to file a change in ownership statement within the time required by Section 480.1, the successor in interest to the decedent's property shall be subject to the penalty provided in Section 482.

SEC. 11. Section 531.2 of the Revenue and Taxation Code is amended to read:

531.2. When the property is real property which subsequent to July 1 of the year of escape for purposes of this article, or subsequent to July 1 of the year in which the property should have been lawfully assessed, for purposes of Article 3 (commencing with Section 501) of this chapter, but prior to the date of such assessment and the showing thereof on the secured roll, with the date of entry specified thereon, has (1) been transferred or conveyed to a bona fide purchaser for value, or (2) become subject to a lien of a bona fide encumbrance for value, the escape assessment pursuant to either of such articles shall not create or impose a lien or charge on such real property but shall be entered on the unsecured roll in the name of the person who would have been the assessee in the year in which it escaped assessment and shall thereafter be treated and collected like other taxes on said roll. The tax rate applicable shall be the secured tax rate of the year in which the property escaped assessment.

If the real property escaped assessment as a result of an unrecorded change in ownership for which a change in ownership statement required by Section 480 is not filed, the assessor shall appraise the property as of the date of transfer and enroll the difference in taxable value for each of the subsequent years on the secured roll, with the date of entry specified thereon, provided, however, that if prior to the date of such assessment the property has (1) been transferred or conveyed to a bona fide purchaser for value, or (2) become subject to a lien of a bona fide encumbrance for value, the escape assessment pursuant to this paragraph shall not create or impose a lien or charge on such real property but shall be entered on the unsecured roll in the name of the person who would have been the assessee in the year in which it escaped assessment and shall thereafter be treated and collected like other taxes on said roll. The tax rate applicable shall be the secured rate of the year in which the property escaped assessment. Notwithstanding the provisions of Section 532, escaped assessments resulting from such unrecorded changes in ownership shall be made within eight years after July 1 of the assessment year in which the real property escaped taxation or was underassessed.

SEC. 12. Section 619.15 is added to the Revenue and Taxation Code, to read:

619.15. The county assessor in counties of over 4,000,000 population may, with the concurrence of the tax collector, notify an assessee of the possibility of a reduction in assessment resulting from the enactment of Chapter 242, 1161, or 1188 of the Statutes of 1979. An assessee who receives such notice may defer payment of taxes

based on such assessment until 30 days after issuance of an additional tax bill requesting payment or until the second installment delinquent date, whichever is latest.

The provisions of this section shall remain in effect only until June 30, 1982, and as of such date are repealed, unless a later enacted statute, which is chaptered before June 30, 1982, deletes or extends such date.

SEC. 13. Section 1610 of the Revenue and Taxation Code is repealed.

SEC. 13.5. Section 1640 of the Revenue and Taxation Code is amended to read:

1640. The clerk shall transmit by mail to the protesting party and shall transmit to the county board of equalization or assessment appeals board the hearing officer's report and recommendation on the assessment protest. The protesting party shall be informed that the county board of equalization is bound by the recommendation of the assessment hearing officer.

SEC. 14. Section 1641 of the Revenue and Taxation Code is repealed.

SEC. 15. Section 1641 is added to the Revenue and Taxation Code, to read:

1641. Upon the recommendation of an assessment hearing officer the county board of equalization or assessment appeals board shall establish the assessed value for the property at the value recommended by the hearing officer.

SEC. 16. Section 4836 of the Revenue and Taxation Code is amended to read:

4836. If the correction will increase the amount of unpaid taxes, the assessor shall notify the assessee of the procedure for obtaining review by the county board under Section 1605 and the procedure for applying for cancellation under Section 4986.

SEC. 17. Section 4845 is added to the Revenue and Taxation Code, to read:

4845. For the 1980-81 fiscal year only, notwithstanding any other provisions of this division, the county assessor in counties of over 4,000,000 population may make corrections to the 1980-81 roll during such fiscal year without a prior hearing by, or the prior approval of, the board of supervisors if the corrections are expressly authorized by statute. If the assessment change results in a reduction of taxes which have been paid, the amount of the overpayment resulting from such reduction of taxes may be refunded to the current assessee or assessee of record between July 1, 1979, and June 30, 1980, in which case a refund of such reduced taxes shall be prorated between such assessee of record in the same proportion as they participated in the payment of such taxes.

SEC. 18. It is the intent of the Legislature, if this bill and Assembly Bill 2777 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 62 of the Revenue and Taxation Code, and this bill is chaptered after Assembly Bill 2777,

that Section 62 of the Revenue and Taxation Code, as amended by Section 2 of this act shall remain operative only until the operative date of Assembly Bill 2777, and that on the operative date of Assembly Bill 2777 Section 62 of the Revenue and Taxation Code as amended by Section 2 of this act be further amended in the form set forth in Section 2.3 of this act to incorporate the changes in Section 62 proposed by Assembly Bill 2777. Therefore, Section 2.3 of this act shall become operative only if this bill and Assembly Bill 2777 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 62, and this bill is chaptered after Assembly Bill 2777, in which case Section 2.3 of this act shall become operative on the operative date of Assembly Bill 2777.

SEC. 19. It is the intent of the Legislature, if this bill and Assembly Bill 2777 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 480 of the Revenue and Taxation Code, and this bill is chaptered after Assembly Bill 2777, that Section 480 of the Revenue and Taxation Code, as amended by Section 7 of this act shall remain operative only until the operative date of Assembly Bill 2777, and that on the operative date of Assembly Bill 2777 Section 480 of the Revenue and Taxation Code as amended by Section 7 of this act be further amended in the form set forth in Section 7.5 of this act to incorporate the changes in Section 480 proposed by Assembly Bill 2777. Therefore, Section 7.5 of this act shall become operative only if this bill and Assembly Bill 2777 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 480, and this bill is chaptered after Assembly Bill 2777, in which case Section 7.5 of this act shall become operative on the operative date of Assembly Bill 2777.

SEC. 20. 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 adequate notice to assessees of the possibility of a reduction in assessment, it is necessary for this act to take effect immediately.

The changes to be made by this act in the laws relating to property taxation must apply to the 1980-81 fiscal year property tax roll. Since county assessors are now engaged in preparing the 1980-81 fiscal year roll and must complete their work by July 1, 1980, or by such time as extended by this act it is necessary that this act go into immediate effect.

## CHAPTER 1082

An act to amend Sections 1423, 1424, 1425, and 1428 of the Health and Safety Code, relating to long-term care.

[Approved by Governor September 25, 1980. Filed with Secretary of State September 26, 1980 ]

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

SECTION 1. Section 1423 of the Health and Safety Code is amended to read:

1423. (a) If upon inspection or investigation the director determines that a long-term health care facility is in violation of any statutory provision or rule or regulation relating to the operation or maintenance of such facility, except with respect to violations determined to have only a minimal relationship to safety or health pursuant to Section 1427, the director shall promptly, but not later than 24 hours, excluding Saturday, Sunday, and holidays, after the director determines or has reasonable cause to determine that an alleged violation has occurred, issue a notice to correct the violation and of intent to issue a citation to the licensee. The citation shall be served upon the licensee within three days after completion of the inspection, excluding Saturday, Sunday, and holidays, unless the licensee agrees in writing to an extension of such time. Service shall be effected either personally or by registered mail in accordance with subdivision (c) of Section 11505 of the Government Code. A copy of the citation shall also be sent to each complainant. Each citation shall be in writing and shall describe with particularity the nature of the violation, including a reference to the statutory provision, standard, rule or regulation alleged to have been violated, the particular place or area of the facility in which it occurred, as well as the amount of any proposed assessment of a civil penalty. The name of any patient jeopardized by the alleged violation shall not be specified in the citation in order to protect the privacy of the patient. However, at the time the licensee is served with the citation, the licensee shall also be served with a written list of each of the names of the patients alleged to have been jeopardized by the violation, which shall not be subject to disclosure as a public record. The citation shall fix the earliest feasible time for the elimination of the condition constituting the alleged violation, when appropriate.

(b) Where no harm to patients or guests has occurred, a single incident, event, or occurrence shall result in no more than one citation for each regulation violated.

SEC. 2. Section 1424 of the Health and Safety Code is amended to read:

1424. Citations issued pursuant to this chapter shall be classified according to the nature of the violation and shall indicate the classification on the face thereof, as follows:

(a) Class "A" violations are violations which the state department determines present either (1) imminent danger that death or serious harm to the patients or guests of the long-term health care facility would result therefrom, or (2) substantial probability that death or serious physical harm to patients or guests of the long-term health care facility would result therefrom. A physical condition or one or more practices, means, methods, or operations in use in a long-term health care facility may constitute such a violation. The condition or practice constituting a class "A" violation shall be abated or eliminated immediately, unless a fixed period of time, as determined by the state department, is required for correction. A class "A" violation is subject to a civil penalty in an amount not less than one thousand dollars (\$1,000) and not exceeding five thousand dollars (\$5,000) for each and every violation.

(b) Class "B" violations are violations which the state department determines have a direct or immediate relationship to the health, safety, or security of long-term health care facility patients, other than class "A" violations. A class "B" violation is subject to a civil penalty in an amount not less than fifty dollars (\$50) and not exceeding two hundred fifty dollars (\$250) for each and every violation. A citation for a class "B" violation shall specify the time within which the violation is required to be corrected. If a class "B" violation is corrected within the time specified, no civil penalty shall be imposed.

SEC. 3. Section 1425 of the Health and Safety Code is amended to read:

1425. Where a licensee has failed to correct a violation within the time specified in the citation, the state department shall assess the licensee a civil penalty in the amount of fifty dollars (\$50) for each day that such deficiency continues beyond the date specified for correction. If the licensee disputes a determination by the state department regarding alleged failure to correct a violation or regarding the reasonableness of the proposed deadline for correction, the licensee may request an informal conference and contest such determination.

SEC. 4. Section 1428 of the Health and Safety Code is amended to read:

1428. (a) If a licensee desires to contest a citation or the proposed assessment of a civil penalty therefor, the licensee shall within five business days after service of the citation notify the director in writing of his or her request for an informal conference with the designee of the director for the county in which the cited long-term health care facility is located. The director's designee shall hold, within five business days from the receipt of the request, an informal conference, at the conclusion of which he or she may affirm, modify, or dismiss the citation or proposed assessment of a civil penalty. If the director's designee modifies or dismisses the citation or proposed assessment of a civil penalty, he or she shall state with particularity in writing his or her reasons for such action, and shall

immediately transmit a copy thereof to each party to the original complaint. If the licensee desires to contest a decision made after the informal conference, the licensee shall inform the director in writing within five business days after he or she receives the decision by the director's designee. If the licensee fails to notify the director in writing that he or she intends to contest the citation or the proposed assessment of a civil penalty therefor or the decision made by a director's designee after an informal conference within the time specified in this subdivision, the citation or the proposed assessment of a civil penalty or the decision by a director's designee after an informal conference shall be deemed a final order of the state department and shall not be subject to further administrative review.

(b) A licensee may, in lieu of contesting a citation pursuant to this section, transmit to the department the minimum amount specified by law for each violation within five business days after the issuance of the citation.

(c) If a licensee notifies the director that he or she intends to contest a citation, the director shall immediately notify the Attorney General. Upon such notification, the Attorney General shall promptly take all appropriate action to enforce the citation and recover the civil penalty prescribed thereon, and shall take such other action as the Attorney General shall deem appropriate, in the superior court of the county in which the long-term health care facility is located.

(d) In assessing the civil penalty for each count of violation, a court shall consider the nature of the violation and the seriousness of the effect of such violation upon the effectuation of the purposes and provisions of this chapter.

(e) An assessment of civil penalties authorized by this chapter shall be trebled and collected, except as provided for by law, for a second or subsequent violation occurring within any 12-month period, if a citation was issued and a civil penalty assessed for the previous violation occurring within such period, without regard to whether the action to enforce the previous citation has become final. However, the increment to the civil penalty required by this subdivision shall not be due and payable unless and until such previous action has terminated in favor of the state department.

(f) Actions brought under the provisions of this chapter shall be set for trial at the earliest possible date and shall take precedence on the court calendar over all other cases except matters to which equal or superior precedence is specifically granted by law. The times for responsive pleadings and for hearings in any such proceedings shall be set by the judge of the court with the object of securing a decision as to such matters at the earliest possible time.

(g) If the director's designee dismisses a citation as provided in subdivision (a), or if a contested citation is dismissed pursuant to court order, the state department shall take action immediately to ensure that the public record reflects in a prominent manner that

the citation was dismissed.

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## CHAPTER 1083

An act to amend Sections 70, 72, 1173, 1178, 1179, 1181, 1193.5, and 1198.3 of, to add Sections 73, 1178.5, 1182, 1182.1, 1184, and 1198.4 to, and to repeal Sections 73, 1178.5, 1182, 1184, 1189, and 1198.3 of, the Labor Code, relating to labor.

[Approved by Governor September 25, 1980 Filed with  
Secretary of State September 26, 1980.]

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

**SECTION 1.** Section 70 of the Labor Code is amended to read:  
70. There is in the Department of Industrial Relations the Industrial Welfare Commission which consists of five members. The members of the commission shall be appointed by the Governor, with the consent of the Senate.

**SEC. 2.** Section 72 of the Labor Code is amended to read:

72. The members of the commission shall receive one hundred dollars (\$100) for each day's actual attendance at meetings and other official business of the commission and shall receive their actual and necessary expenses incurred in the performance of their duties.

**SEC. 3.** Section 73 of the Labor Code is repealed.

**SEC. 4.** Section 73 is added to the Labor Code, to read:

73. The Industrial Welfare Commission may employ necessary assistants, officers, experts, and such other employees as it deems necessary. All such personnel of the commission shall be under the supervision of the chairman or an executive officer to whom the chairman delegates such responsibility. All such personnel shall be appointed pursuant to the State Civil Service Act (Part 1 (commencing with Section 18000) of Division 5 of Title 2 of the Government Code), except for the one exempt deputy or employee allowed by subdivision (e) of Section 4 of Article VII of the California Constitution.

**SEC. 5.** 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 health, safety, and welfare of such employees.

The commission shall conduct a full review of the adequacy of the minimum wage at least once every two years. The commission may, upon its own motion or upon petition, amend or rescind any order or portion of any order or adopt an order covering any occupation,

trade, or industry not covered by an existing order pursuant to the provisions of this chapter.

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 and Health Standards Board shall have exclusive jurisdiction, and rules, regulations, or policies of the commission on the same subject have no force or effect.

SEC. 6. Section 1178 of the Labor Code is amended to read:

1178. If after investigation the commission finds that in any occupation, trade, or industry, the wages paid to employees may be inadequate to supply the cost of proper living, or that the hours or conditions of labor may be prejudicial to the health, morals, or welfare of employees, the commission shall select a wage board to consider any of such matters and transmit to such wage board the information supporting its findings gathered in the investigation. Such investigation shall include at least one public hearing.

SEC. 7. Section 1178.5 of the Labor Code is repealed.

SEC. 8. Section 1178.5 is added to the Labor Code, to read:

1178.5. (a) If the commission finds that wages paid to employees may be inadequate to supply the cost of proper living, it shall select one wage board composed of an equal number of representatives of employers and employees, and a nonvoting representative of the commission, designated by the commission, who shall act as chairperson. The wage board shall consider the findings of the commission and such other information it deems appropriate and report to the commission its recommendation of a minimum wage adequate to supply the necessary cost of proper living to, and maintain the health and welfare of employees in this state, and its recommendations on such other matters related to the minimum wage on which the commission has requested recommendations.

(b) If the commission finds that hours or conditions of labor may be prejudicial to the health or welfare of employees in any occupation, trade, or industry, it shall select a wage board composed of an equal number of representatives of employers and employees in the occupation, trade, or industry in question, and a nonvoting representative of the commission, designated by the commission, who shall act as chairperson. The wage board shall consider the findings of the commission and such other information it deems appropriate and report to the commission its recommendation as to what action should be taken by the commission with respect to the matter under consideration.

(c) Prior to amending or rescinding any existing order or adopting any new order, and after receipt of the wage board report and recommendation, the commission shall prepare proposed regulations with respect to the matter under consideration. The

proposed regulations shall include any recommendation of the wage board which received the support of at least two-thirds of the members of the wage board. A public hearing on the proposed regulations shall be held in each of at least three cities in this state, except when the proposed regulations would affect only an occupation, trade, or industry which is not statewide in scope, in which case a public hearing shall be held in the locality in which the occupation, trade, or industry prevails. The proceedings shall be recorded and transcribed and shall thereafter be a matter of public record.

SEC. 9. Section 1179 of the Labor Code is amended to read:

1179. The members of the wage board shall be allowed fifty dollars (\$50) per diem and necessary traveling expenses while engaged in such conferences. The commission shall make rules governing the number and selection of the members and the mode of procedure of the wage board, and shall exercise exclusive jurisdiction over all questions as to the validity of the procedure.

SEC. 10. Section 1181 of the Labor Code is amended to read:

1181. Upon the fixing of the time and place for the holding of a hearing for the purpose of considering and acting upon the proposed regulations or any matters referred to in Sections 1176 to 1180, inclusive, the commission shall:

(a) Give public notice thereof by advertisement in at least one newspaper published in each of the cities of Los Angeles, Oakland, Sacramento, San Jose, Fresno, Eureka, San Diego, Long Beach, Alameda, Berkeley, Stockton, San Bernardino, and San Francisco.

(b) Mail a copy of the notice and the proposed regulations to the county clerk of each county in the state to be posted at the courthouse; to each association of employers or employees which, in the opinion of the commission, would be affected by the hearing; and to any person or organization within this state filing with the commission a written request for notice of such hearing. Failure to mail such notice shall not invalidate any order of the commission issued after such hearing.

The notice shall also state the time and place fixed for the hearing, which shall not be less than 30 days from the date of publication and mailing of such notices.

SEC. 11. Section 1182 of the Labor Code is repealed.

SEC. 12. Section 1182 is added to the Labor Code, to read:

1182. (a) After receipt of the wage board report and the public hearings on the proposed regulations, the commission may, upon its own motion, amend or rescind an existing order or promulgate a new order. However, with respect to proposed regulations based on recommendations supported by at least two-thirds of the members of the wage board, the commission shall adopt such proposed regulations, unless it finds there is no substantial evidence to support such recommendations.

(b) If at any time the federal minimum wage applicable to employees covered by the Fair Labor Standards Act of 1938, as

amended, prior to February 1, 1967, is scheduled to exceed the minimum wage fixed by the commission, the provisions of Sections 1178 and 1178.5 pertaining to wage boards shall be waived and the commission shall, in a public meeting, adopt an order fixing a new minimum wage at the scheduled higher federal minimum wage. The effective date of such order shall be the same as the effective date of the federal minimum wage, and such order shall not become operative in the event the scheduled increase in the federal minimum wage does not become operative.

SEC. 13. Section 1182.1 is added to the Labor Code, to read:

1182.1. Any action taken by the commission pursuant to Section 1182 shall be published in at least one newspaper in each of the cities of Los Angeles, Sacramento, Oakland, San Jose, Fresno, San Diego, and San Francisco. A summary of the action taken and notice of where the complete text of the new or amended order may be obtained may be published in lieu of the complete text when the commission determines such summary and notice will adequately inform the public. The statement as to the basis of the order need not be published.

SEC. 14. Section 1184 of the Labor Code is repealed.

SEC. 15. Section 1184 is added to the Labor Code, to read:

1184. Any action taken by the commission pursuant to Section 1182 shall be effective on the first day of the succeeding January or July and not less than 60 days from the date of publication pursuant to Section 1182.1 and mailing pursuant to Section 1183.

SEC. 16. Section 1189 of the Labor Code is repealed.

SEC. 17. Section 1193.5 of the Labor Code is amended to read:

1193.5. The provisions of this chapter shall be administered and enforced by the division. Any authorized representative of the division shall have authority to:

(a) Investigate and ascertain the wages of all employees, and the hours and working conditions of all employees employed in any occupation in the state;

(b) Supervise the payment of unpaid minimum wages or unpaid overtime compensation owing to any employee under the provisions of this chapter or the orders of the commission. Acceptance of payment of sums found to be due on demand of the division shall constitute a waiver on the part of the employee of his or her cause of action under Section 1194.

Unpaid minimum wages or unpaid overtime wages recovered by the division under the provisions of this section which for any reason cannot be delivered within six months from date of collection to the employee for whom such wages were collected shall be deposited into the Industrial Relations Unpaid Wage Fund in the State Treasury.

SEC. 18. Section 1198.3 of the Labor Code is amended to read:

1198.3. (a) The Chief of the Division of Labor Standards Enforcement may, when in his judgment hardship will result, exempt any employer or employees from any mandatory day or days

off requirement contained in any order of the commission. Any exemption granted by the chief pursuant to this section shall be only of sufficient duration to permit the employer or employees to comply with the requirements contained in the order of the commission, but not more than one year. The exemption may be renewed by the chief only after he has investigated and is satisfied that a good faith effort is being made to comply with the order of the commission.

(b) No employer shall discharge or in any other manner discriminate against any employee who refuses to work hours in excess of those permitted by the order of the commission.

(c) This section shall remain in effect only until January 1, 1984, and as of such date is repealed, unless a later statute, which is chaptered before January 1, 1984, deletes or extends such date.

SEC. 19. Section 1198.4 is added to the Labor Code, to read:

1198.4. Upon request, the Chief of the Division of Labor Standards Enforcement shall make available to the public any enforcement policy statements or interpretations of orders of the Industrial Welfare Commission. Copies of such policy statements shall be furnished to the Industrial Welfare Commission.

SEC. 20. Any petition filed with the commission within 60 days of the effective date of this act requesting revision of any order so as to permit exemptions from any hours or days of work provision shall be given priority over other petitions. The commission shall report to the Legislature, no later than December 31, 1981, any action taken as a result of such petitions, and the basis for such action.

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## CHAPTER 1084

An act to amend Sections 216, 218, and 2805 of the Public Utilities Code, relating to electricity.

[Approved by Governor September 25, 1980. Filed with  
Secretary of State September 26, 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 producing 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. 1.5. 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, 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, 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, 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 producing 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, unless cogeneration technology, as defined in Section 25134 of the Public Resources Code, is employed in the production of such power.

SEC. 4. It is the intent of the Legislature, if this bill and Senate Bill 1048 are both chaptered and become effective January 1, 1981, both bills amend Section 216 of the Public Utilities Code, and this bill is chaptered after Senate Bill 1048, that the amendments to Section 216 proposed by both bills be given effect and incorporated in Section 216 in the form set forth in Section 1.5 of this act. Therefore, Section 1.5 of this act shall become operative only if this bill and Senate Bill 1048 are both chaptered and become effective January 1, 1981, both amend Section 216, and this bill is chaptered after Senate Bill 1048, in which case Section 1 of this act shall not become operative.

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## CHAPTER 1085

An act to amend Sections 40402, 40404, 40411, 40413, 40414, 40420, 40422, 40426, 40440, 40441, 40442, 40443, 40444, 40445, 40449, 40480, 40500, and 40506 of, to amend and renumber the headings of Article 2.5 (commencing with Section 40420), Article 3 (commencing with

Section 40440), Article 5 (commencing with Section 40480), Article 6 (commencing with Section 40500), and Article 7 (commencing with Section 40520) of Chapter 5.5 of Part 3 of Division 26 of, to add Section 40428 to, to add Article 5 (commencing with Section 40460) to Chapter 5.5 of Part 3 of Division 26 of, to repeal Sections 40401, 40415, 40451, 40452, 40522, and 40525 of, and to repeal Article 4 (commencing with Section 40460) of Chapter 5.5 of Part 3 of Division 26 of, the Health and Safety Code, relating to air pollution.

[Approved by Governor September 25, 1980. Filed with  
Secretary of State September 26, 1980 ]

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

SECTION 1. Section 40401 of the Health and Safety Code is repealed.

SEC. 2. Section 40402 of the Health and Safety Code is amended to read:

40402. The Legislature finds and declares:

(a) That the South Coast Air Basin is a geographical entity not reflected by political boundaries.

(b) That the basin is acknowledged to have critical air pollution problems caused by the operation of millions of motor vehicles in the basin, stationary sources of pollution, frequent atmospheric inversions that trap aerial contaminants, and the large amount of sunshine that transforms vehicular and nonvehicular emissions into a variety of deleterious chemicals.

(c) That the state and federal governments have promulgated ambient air quality standards for the protection of public health, and it is in the public interest that those standards not be exceeded.

(d) That, in order to achieve and maintain air quality within the ambient air quality standards, a comprehensive basinwide air quality management plan must be developed and implemented to provide for the rapid abatement of existing emission levels to levels which will result in the achievement and maintenance of the state and federal ambient air quality standards and to ensure that new sources of emissions are planned and operated so as to be consistent with the basin's air quality goals.

(e) That, in order to successfully develop and implement a meaningful strategy for achieving and maintaining ambient air quality standards, local governments in the South Coast Air Basin must be delegated additional authority from the state in the control of vehicular sources and must retain existing authority to set stringent emission standards for nonvehicular sources.

(f) That, in order to successfully implement a comprehensive program for the achievement and maintenance of state and federal ambient air quality standards in the South Coast Air Basin, the responsibilities of local and regional authorities with respect to air pollution control and air quality management plan adoption must be

fully integrated into an agency with basinwide authority, largely to be governed by representatives of county and city governments.

SEC. 3. Section 40404 of the Health and Safety Code is amended to read:

40404. As used in this chapter, "plan" means the south coast district air quality management plan.

SEC. 4. Section 40411 of the Health and Safety Code is amended to read:

40411. (a) The south coast district board may, by resolution, include all or part of the County of Santa Barbara or the County of Ventura within the south coast district, upon receipt of a resolution from the appropriate board of supervisors requesting inclusion.

(b) The inclusion of the county, or portion thereof, as the case may be, shall take effect at the commencement of the first quarter commencing at least 60 days after the adoption of the resolution.

(c) A copy of the resolution of approval shall be sent by the south coast district board to the board of supervisors and the state board.

SEC. 5. Section 40413 of the Health and Safety Code is amended to read:

40413. The board of supervisors of a county that is only included in part within the south coast district may, by resolution, request the south coast district board to have that area of the county not included within the South Coast Air Basin included in the south coast district, or the board of supervisors may request to contract with the south coast district to perform air pollution control functions in that area of the respective county not within the South Coast Air Basin. The south coast district board may, by resolution, agree to (1) have that area of the county not included within the South Coast Air Basin included in the south coast district, or (2) perform air pollution control functions for that area of the county not included within the South Coast Air Basin, or both (1) and (2).

SEC. 6. Section 40414 of the Health and Safety Code is amended to read:

40414. No provision of this chapter shall constitute an infringement on the existing authority of counties and cities to plan or control land use, and no provision of this chapter shall be interpreted as providing or transferring new authority over such land use to either the south coast district, the Southern California Association of Governments, or the state board.

SEC. 7. Section 40415 of the Health and Safety Code is repealed.

SEC. 8. The heading of Article 2.5 (commencing with Section 40420) of Chapter 5.5 of Part 3 of Division 26 of the Health and Safety Code is amended and renumbered to read:

### Article 3. Governing Body

SEC. 9. Section 40420 of the Health and Safety Code is amended to read:

40420. The district shall be governed by a district board

consisting of 10 members appointed as follows:

(a) Two members appointed by the Board of Supervisors of the County of Los Angeles, who shall be members of the board of supervisors.

(b) One member of the City Council of Los Angeles appointed by the Mayor of Los Angeles.

(c) One member of any city council, except the City Council of Los Angeles, in the portion of the County of Los Angeles included within the south coast district appointed by a committee consisting of the members of the city selection committee from that portion of the county.

(d) One member appointed by each of the other boards of supervisors of the counties included, in whole or in part, within the south coast district, which member shall be a member of the appointing board of supervisors.

(e) One member of any city council in the County of Orange appointed by the city selection committee of that county.

(f) One member of any city council in those portions of the Counties of San Bernardino and Riverside included within the south coast district appointed by a committee consisting of the members of the city selection committees from those portions of the two counties.

(g) One member appointed by the Governor, with the advice and consent of the Senate, which member shall be a resident of the south coast district and shall not be an elected public officer.

A member of the south coast district board who is also a member of a board of supervisors may appoint an alternate member in his place who shall be able to act on all south coast district matters.

SEC. 10. Section 40422 of the Health and Safety Code is amended to read:

40422. Members of the south coast district board shall serve at the pleasure of their respective appointing powers. Any vacancy on the south coast district board shall be filled within 60 days of occurrence by its appointing power.

SEC. 11. Section 40426 of the Health and Safety Code is amended to read:

40426. Each member of the south coast district board shall receive a compensation of one hundred dollars (\$100) for each day, or portion thereof, but not to exceed five hundred dollars (\$500) in any month, attending meetings of the south coast district board or committees thereof or, upon authorization of the south coast district board, while on official business of the south coast district, and his actual and necessary expenses incurred in performing his official duties.

SEC. 12. Section 40428 is added to the Health and Safety Code, to read:

40428. There is continued in existence the South Coast Air Quality Management District Advisory Council, which is appointed by the south coast district board, to advise and consult with the south

coast district board in effectuating the purpose of this division.

The membership and rules of the advisory council shall be as established by resolution of the south coast district board.

SEC. 13. The heading of Article 3 (commencing with Section 40440) of Chapter 5.5 of Part 3 of Division 26 of the Health and Safety Code is amended and renumbered to read:

#### Article 4. General Powers and Duties

SEC. 13.5. Section 40440 of the Health and Safety Code is amended to read:

40440. (a) The south coast district board shall adopt rules and regulations that are not in conflict with state and federal laws and rules and regulations that reflect the best available technological and administrative practices. Upon adoption and approval of the plan, such rules and regulations shall be amended, if necessary, to conform to the plan.

(b) The rules and regulations of the Southern California Air Pollution Control District shall remain in effect and shall be enforced by the south coast district, until superseded or amended by the south coast district board.

SEC. 14. Section 40441 of the Health and Safety Code is amended to read:

40441. After adoption of the plan, the south coast district shall have the responsibility for securing the cooperation of other public entities in the implementation of the plan, including all programs, plans, and projects relating to or affecting air quality within the south coast district.

The south coast district board may adopt such rules and regulations as do not conflict with state and federal laws for the coordination of local, state, and federal programs affecting air quality.

SEC. 15. Section 40442 of the Health and Safety Code is amended to read:

40442. If the plan is not adopted or approved in compliance with the schedule set forth in Section 40463, the powers and duties of the south coast district board with respect to air quality control shall not be diminished or otherwise affected by such failure to adopt or approve the plan.

SEC. 15.5. Section 40443 of the Health and Safety Code is amended to read:

40443. The south coast district board shall adopt revised and updated nonvehicular source emission limitations for inclusion in the state's implementation plan.

SEC. 16. Section 40444 of the Health and Safety Code is amended to read:

40444. The south coast district board shall adopt the necessary rules and regulations to implement the Air Pollution Emergency Plan developed by the state board.

SEC. 17. Section 40445 of the Health and Safety Code is amended

to read:

40445. Pursuant to its authority under Section 40444 to implement the Air Pollution Emergency Plan of the state board, the south coast district board may adopt rules and regulations to limit the operation of motor vehicles within the south coast district during the period when an air pollution emergency has been called as defined by that plan. Such rules and regulations shall not apply to the operation of authorized emergency vehicles, as defined in Section 165 of the Vehicle Code, or repair vehicles of a public utility.

SEC. 18. Section 40449 of the Health and Safety Code is amended to read:

40449. (a) No provision of this chapter is a limitation on the power of any city or county included, in whole or in part, within the south coast district to adopt any ordinance with respect to air pollution control which is stricter than the rules and regulations adopted by the south coast district board and not in conflict therewith. The south coast district board shall enforce any such ordinance.

(b) At the request of the governing body of any city or county included, in whole or in part, within the south coast district, the south coast district board may make available, on a temporary basis, the necessary personnel, equipment, and services to assist in adopting any ordinance stricter than the rules and regulations adopted by the south coast district.

SEC. 18.5. Section 40451 of the Health and Safety Code is repealed.

SEC. 18.7. Section 40452 of the Health and Safety Code is repealed.

SEC. 19. Article 4 (commencing with Section 40460) of Chapter 5.5 of Part 3 of Division 26 of the Health and Safety Code is repealed.

SEC. 20. Article 5 (commencing with Section 40460) is added to Chapter 5.5 of Part 3 of Division 26 of the Health and Safety Code, to read:

#### Article 5. Plan

40460. (a) No later than January 31, 1979, the south coast district board shall adopt a plan to achieve and maintain the state and federal ambient air quality standards for the South Coast Air Basin. The plan shall be revised and adopted by the south coast district board by January 31, 1982, according to a schedule consistent with subdivision (a) of Section 40463. The plan revisions shall be compiled by the south coast district board, with the cooperation of the state board and the Department of Transportation, and the active participation of the Southern California Association of Governments and the counties and cities within the South Coast Air Basin.

(b) With the assistance of counties and cities, the Southern California Association of Governments shall have responsibility for preparing and approving the portions of the plan relating to regional

demographic projections and integrated regional land use, housing, employment, and transportation programs, measures, and strategies. The Southern California Association of Governments shall analyze and provide emissions data related to its planning responsibilities.

(c) The south coast district shall have the responsibility for preparing and analyzing the portions of the plan elements relating to existing air quality, emissions data, results of air quality modeling, and stationary source control measures. The south coast district shall combine its portion of the plan with those prepared by the Southern California Association of Governments.

In consultation with the south coast district board, the Southern California Association of Governments, and other appropriate local agencies, the state board shall provide the emissions reductions attributed to technological vehicular source control strategies included in the plan.

(d) Upon adoption by the state board, the plan and future revisions shall be the air quality management plan and, as submitted to the Environmental Protection Agency, the federally required state implementation plan for the South Coast Air Basin. Notwithstanding any other provision of this division, the state implementation plan for the air basin shall only include those provisions necessary to meet the requirements of the Clean Air Act (42 U.S.C. Sec. 7401 et seq.).

40461. The plan, as adopted and revised by the south coast district board, shall be in lieu of the basinwide air pollution control plan required pursuant to Chapter 2 (commencing with Section 41600) of Part 4.

40462. The plan and subsequent revisions shall include deadlines for compliance with the federally mandated attainment of primary ambient air quality standards. The plan and future revisions shall contain deadlines and schedules to achieve the state ambient and the federal secondary ambient air quality standards by the earliest date achievable by the application of all reasonably available control measures and technologies.

The plan and subsequent revisions shall include provisions to ensure that future growth and development within the South Coast Air Basin are, to the maximum extent feasible, consistent with the goal of achieving and maintaining the air quality standards. The revisions shall identify the resources necessary to carry out the plan provisions, including enforcement costs and the effect of plan provisions on energy resources.

40463. (a) The plan shall be formally reviewed every two years beginning in 1982 by the agencies responsible for preparing plan revisions. In the event of revisions, the compliance schedules and emission limitations shall be amended to reflect advances in technology, control strategies, and administrative practices. The south coast district board may delay submittal of revisions up to two years if necessary to synchronize with the dates of submittal required under the Clean Air Act (42 U.S.C. Sec. 7401 et seq.).

(b) With the active participation of the Southern California Association of Governments, a South Coast Air Basin emission carrying capacity for each state and federal ambient air quality standard shall be established by the south coast district board for each formal review of the plan consistent with subdivision (a) and shall be updated to reflect new data and modeling results. A carrying capacity is the maximum level of emissions which would enable the attainment and maintenance of an ambient air quality standard for a pollutant. Emission carrying capacity for state standards shall not be a part of the state implementation plan requirements of the Clean Air Act for the South Coast Air Basin.

(c) The state board shall review and comment, within 60 days of submittal by the south coast district, on the emission carrying capacity, air quality model selection, and all other data required by this section. The south coast district board and the Southern California Association of Governments Executive Committee shall consider the comments of the state board and shall either accept the state board's recommendations regarding carrying capacity or shall advise the state board that the recommendations are not accepted.

(d) If the state board receives notification that its recommendations are not accepted, the state board shall convene a conflict resolution committee within 30 days to attempt to resolve the differences. The committee shall be composed of two members each of the state board, the Executive Committee of the Southern California Association of Governments, and the south coast district board appointed by the entity they represent. The committee shall make a recommendation to the three governing boards.

40464. The Southern California Association of Governments shall coordinate the efforts of the counties and cities in the process of developing and reviewing plan elements which meet the requirements of the plan, state and federal law, and local needs relating to transportation, land use, demographic projections, employment, housing, and other matters of local concern.

40465. The Southern California Association of Governments shall submit its plan elements to the south coast district board by June 1 of each odd-numbered year, except in the case of a delayed submittal as provided in subdivision (a) of Section 40463, for incorporation into the air quality management plan. The district shall combine the association's plan elements with the south coast district elements as specified in subdivision (a) of Section 40460. Each agency shall prepare and submit all necessary documentation, including that of public and intergovernmental involvement.

40466. The south coast district board shall adopt plan revisions according to subdivision (a) of Section 40463 after holding public hearings throughout the South Coast Air Basin. The south coast district board shall submit the adopted plan revisions to the state board and to the Legislature.

40467. Prior to formal submittal of this plan to the state board by the south coast district board, and during the time period specified

in subdivision (a) of Section 40463, the south coast district board and the state board shall meet to identify and agree on the portions of the plan which are of prime importance to subsequent state board approval of the plan. The south coast district board and the state board shall work together to resolve any differences concerning these key sections prior to formal submission of the plan to the state board. The south coast district board and the state board shall jointly adopt the procedures by which these plan differences shall be resolved.

40468. The state board shall not require as a condition of approval of the plan or subsequent revisions, any indirect source review program or other land use control measures.

40469. (a) Following submittal by the south coast district, the state board shall review the locally adopted plan to determine its adequacy to meet the requirements of the Clean Air Act (42 U.S.C. Sec. 7401 et seq.) and its adequacy to attain state ambient air quality standards through application of reasonably available control measures and technologies. If the state board determines that portions of the plan meet the Clean Air Act requirements, it shall adopt and submit to the Environmental Protection Agency the portions of the plan required by the Clean Air Act within 120 days after receipt of the plan from the south coast district.

(b) If the state board determines that the plan does not meet all the Clean Air Act requirements, or does not include a deadline for the attainment of the state ambient air quality standards by application of reasonably available control measures and technologies, the state board shall, prior to amending the locally adopted plan, convene a committee comprised of two members each of the state board, the Executive Committee of the Southern California Association of Governments, and the south coast district board appointed by the entity they represent to attempt to resolve the differences. If it is necessary to amend the plan, the state board shall do so at a public hearing held pursuant to Section 41652 and shall submit to the Environmental Protection Agency the portions of the plan required by the Clean Air Act within 120 days after receipt of the plan from the south coast district. In submitting the plan to the Environmental Protection Agency, the state board shall indicate what changes have been made to the locally adopted plan in order to permit the Environmental Protection Agency to consider the views of the responsible local planning agencies.

40470. The Southern California Association of Governments shall participate in the joint agency review and conflict resolution processes established by Sections 40463, 40467, and 40469 insofar as the processes relate to plan elements for which the Southern California Association of Governments has plan development responsibility.

SEC. 21. The heading of Article 5 (commencing with Section 40480) of Chapter 5.5 of Part 3 of Division 26 of the Health and Safety Code is amended and renumbered to read:

Article 6. Officers and Employees

SEC. 22. Section 40480 of the Health and Safety Code is amended to read:

40480. (a) The south coast district board shall employ the necessary staff to carry out its program throughout the south coast district.

(b) The south coast district board shall appoint an executive officer to direct the staff, subject to the direction and policy of the south coast district board.

(c) The staff shall also be available to serve those portions of a county not included within the south coast district where the county is only partly included within the south coast district.

(d) The south coast district may enter into a contract with any city or county included, in whole or in part, within the south coast district to perform air pollution control functions for the south coast district, and the city or county may perform such functions for the south coast district pursuant to the contract.

SEC. 23. The heading of Article 6 (commencing with Section 40500) of Chapter 5.5 of Part 3 of Division 26 of the Health and Safety Code is amended and renumbered to read:

Article 7. Variances and Permits

SEC. 24. Section 40500 of the Health and Safety Code is amended to read:

40500. In accordance with the purposes of this chapter as set forth in Section 40402, the south coast district board shall establish rules and regulations for the granting of variances by the hearing board from Section 41701 or from such standards for the discharge of air contaminants as the south coast district may adopt.

The rules and regulations shall include a schedule of fees, which shall be based upon the number of sources the variances are applicable to and the extent the amount of emissions from the sources exceeds the required standards, for the filing of applications for variances. All applicants shall pay the fees required by such rules and regulations, including, notwithstanding the provisions of Section 6103 of the Government Code, an applicant that is a publicly owned public utility. A variance may be granted by the hearing board after a public hearing and upon filing, with appropriate fees, of a variance petition with the hearing board.

SEC. 25. Section 40506 of the Health and Safety Code is amended to read:

40506. In accordance with the purposes of this chapter as set forth in Section 40402, the south coast district board shall establish rules and regulations for the issuance by the south coast district board of permits for authority to construct or operate any article, machine, equipment, or other contrivance for which a permit may be required by the south coast district board.

The rules and regulations shall include a schedule of fees for the filing of applications for permits and for the modification, revocation, extension, or annual renewal of permits. All applicants, including, notwithstanding the provisions of Section 6103 of the Government Code, an applicant that is a publicly owned public utility, shall pay the fees required by such rules and regulations.

SEC. 26. The heading of Article 7 (commencing with Section 40520) of Chapter 5.5 of Part 3 of Division 26 of the Health and Safety Code is amended and renumbered to read:

#### Article 8. Financial Provisions

SEC. 27. Section 40522 of the Health and Safety Code is repealed.

SEC. 28. Section 40525 of the Health and Safety Code is repealed.

SEC. 29. 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.

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### CHAPTER 1086

An act to add Sections 26667 and 26667.3 to the Health and Safety Code, relating to health.

[Approved by Governor September 25, 1980 Filed with  
Secretary of State September 26, 1980 ]

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

SECTION 1. Section 26667 is added to the Health and Safety Code, to read:

26667. For purposes of Sections 26667.3, the following definitions shall apply:

(a) "Distributor" means any corporation, person, or other entity, not engaged in the manufacture of a legend drug product, who distributes for resale and distribution a legend drug product under the label of such corporation, person, or entity.

(b) "Legend drug" means any controlled substance subject to the Federal Controlled Substances Act (Title II, P.L. 91-513) or subject to the Uniform Controlled Substances Act, Division 10 (commencing with Section 11000), and any drug described in Section 4211 of the Business and Professions Code or Section 26660.

(c) "Solid dosage forms" means capsules or tablets intended for oral administration.

(d) "Code imprint" means a series of letters or numbers assigned by the manufacturer or distributor to a specific drug, or marks or monograms unique to the manufacturer, distributor, or both. The National Drug Code may be used as a code imprint.

SEC. 2. Section 26667.3 is added to the Health and Safety Code, to read:

26667.3. (a) No legend drug in solid dosage form may be manufactured or distributed for sale in this state unless it is clearly marked or imprinted with a code imprint identifying the drug and the manufacturer or distributor of the drug. Manufacturers or distributors who only repack an already finished dosage form of a legend drug shall not have the responsibility to do the imprint.

(b) On or before July 1, 1982, manufacturers or distributors of legend drugs, depending on whether the manufacturer's or distributor's code imprint will appear on the surface of the solid dosage form, shall provide to the department a list of their legend drugs and the intended code imprints. The department shall provide for the distribution of the information required to be submitted under this subdivision to all poison control centers in the state. Manufacturers, distributors, and the department shall provide to any licensed health care provider, upon request, lists of legend drugs and code imprints provided to the department under this section, but may charge a reasonable fee to cover copying and postage costs. Updated lists shall be provided to the department annually or as changes or revisions occur.

(c) The department may grant exemptions from the requirements of this section upon application of a manufacturer or distributor indicating size or other characteristics which render the product impractical for the imprinting required by this section.

(d) A legend drug which does not meet the requirements is misbranded.

(e) It is the intent of the Legislature that all legend drugs having solid dosage forms be imprinted regardless of by whom they are distributed.

(f) This section shall apply to all legend drugs sold in California on or after January 1, 1983.

(g) Pharmacists, pharmacies, and licensed wholesalers shall only be liable for knowing and willful violations of this section, except that no liability shall accrue if the pharmacist acts pursuant to Section 4229.5 of the Business and Professions Code.

(h) The provisions of subdivisions (a) to (g), inclusive, shall not apply to any of the following:

(1) Drugs purchased by a pharmacy, pharmacist, or licensed wholesaler prior to January 1, 1983, and held in stock for resale.

(2) Drugs which are the subject of an investigation pursuant to Section 26678 or 26679.

(3) Drugs which are manufactured by or upon the order of a practitioner licensed by law to prescribe or administer drugs and which are to be used solely by the patient for whom prescribed.

SEC. 3. The State Department of Health Services shall submit a report to the Legislature on or before January 1, 1985, with respect to the effectiveness of the program contained in Section 26667.3 of the Health and Safety Code. The report shall include an evaluation and recommendation as to the feasibility of extending the program to cover over the counter drugs.

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.

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## CHAPTER 1087

An act to amend Sections 30213, 30301, 30315, 30353, 30512, 30610.2, and 30610.5 of, and to add Section 30105.5 to, the Public Resources Code, relating to the coastal zone, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1980 Filed with  
Secretary of State September 26, 1980]

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

SECTION 1. Section 30105.5 is added to the Public Resources Code, to read:

30105.5. "Cumulatively" or "cumulative effect" means the incremental effects of an individual project shall be reviewed in connection with the effects of past projects, the effects of other current projects, and the effects of probable future projects.

SEC. 2. Section 30213 of the Public Resources Code is amended to read:

30213. Lower cost visitor and recreational facilities and housing opportunities for persons and families of low or moderate income, as defined by Section 50093 of the Health and Safety Code, shall be protected, encouraged, and, where feasible, provided. Developments providing public recreational opportunities are preferred. New housing in the coastal zone shall be developed in conformity with the standards, policies, and goals of local housing elements adopted in accordance with the requirements of subdivision (c) of Section 65302 of the Government Code.

Neither the commission nor any regional commission shall either: (1) require that overnight room rentals be fixed at an amount certain for any privately owned and operated hotel, motel, or other

similar visitor-serving facility located on either public or private lands; or (2) establish or approve any method for the identification of low or moderate income persons for the purpose of determining eligibility for overnight room rentals in any such facilities.

SEC. 3. Section 30301 of the Public Resources Code is amended to read:

30301. The commission shall consist of the following 15 members:

- (a) The Secretary of the Resources Agency.
- (b) The Secretary of the Business and Transportation Agency.
- (c) The Chairperson of the State Lands Commission.
- (d) Six representatives of the public, who shall not be members of any regional commission, from the state at large. The Governor, the Senate Rules Committee, and the Speaker of the Assembly shall each appoint two of such members.

(e) Six representatives from the regional commissions, selected by each regional commission from among its members. Within 60 days after the termination of any regional commission pursuant to Section 30305, the member on the commission shall be replaced by a county supervisor or city councilperson who shall reside within a coastal county of such region, to be appointed as follows:

(1) Upon the termination of the first regional commission, the Governor shall appoint the first member under this subdivision.

(2) Upon the termination of the second regional commission, the Senate Rules Committee shall appoint the second member under this subdivision.

(3) Upon the termination of the third regional commission, the Speaker of the Assembly shall appoint the third member under this subdivision.

(4) Upon the termination of the fourth, fifth, and sixth regional commissions, the process of appointment of the members of commissions under paragraphs (1), (2), and (3) of this subdivision shall be repeated in that order.

(5) In the event any two or more regional commissions terminate simultaneously, the appointments to the commission shall be made in the same manner as set forth in Section 30301.2, and the respective regional commissions shall be deemed, for purposes of appointment to the commission, to have terminated in the following order: first, the North Coast Regional Commission; second, the North Central Coast Regional Commission; third, the Central Coast Regional Commission; fourth, the South Central Coast Regional Commission; fifth, the South Coast Regional Commission; and sixth, the San Diego Coast Regional Commission.

In any event, each regional commission's representative on the commission shall continue to serve until the new member has been appointed pursuant to this subdivision.

SEC. 4. Section 30315 of the Public Resources Code is amended to read:

30315. The commission and each regional commission shall meet at least once a month at a place convenient to the public. All

meetings of the commission and each regional commission shall be open to the public.

A majority of the total appointed membership of the commission or of a regional commission, as the case may be, shall constitute a quorum. Any action taken by the commission or a regional commission under this division requires a majority vote of the members present at the meeting of the commission or regional commission, with a quorum being present, unless otherwise specifically provided for in this division. Except as specifically provided in subdivision (c) of Section 30512 and subdivisions (d) and (e) of Section 30513, a majority vote of the total appointed membership of the commission or of a regional commission shall be required to take any action required or permitted under this division on a local coastal program or any portion of a local coastal program, or any amendment to a local coastal program, or to adopt or amend rules or regulations of the commission or a regional commission.

SEC. 5. Section 30353 of the Public Resources Code is amended to read:

30353. Payment for costs claimed pursuant to this article shall be made only for costs which, but for the operation of a certified local coastal program, would not have been incurred by the claimant local government and if the following criteria are met:

(a) Costs for establishing a regulatory program to implement a certified local coastal program, including costs for the preparation and printing of public information materials, application forms, establishing new procedures, and staff training are payable. The costs specified in this subdivision include initial startup costs incurred over a period not to exceed one year from the date a certified local coastal program has been adopted for implementation by the appropriate local government.

(b) A fixed payment not to exceed ten dollars (\$10) per permit application for any development subject to a certified local coastal program may be claimed and paid. The payment specified in this subdivision is intended to cover general costs, including costs for public notice, notice and submittal of files to the commission, and appearances before the commission.

(c) Other costs of processing and reviewing coastal development permits pursuant to a certified local coastal program shall normally not be eligible for reimbursement because these types of activities should either be incorporated within the routine regulatory process of the local government or, at the discretion of such local government, be paid for from reasonable permit fees. A local government may, however, request payment for increased regulatory costs if it can show that either or both of the following special circumstances apply within its jurisdiction:

(1) In jurisdictions with a population of less than 10,000, the existing regulatory program of the local government is not capable of processing and reviewing additional coastal development permits pursuant to a certified local coastal program and where such

increased costs could not reasonably be expected to be covered by permit fees.

(2) The regulatory program included in a certified local coastal program requires the discharge of resource management functions that exceed the level of regulatory review normally required or undertaken by the local government.

(d) Costs for enforcement of regulatory requirements that are directly related to local coastal program implementation, such as ensuring compliance with coastal development permit terms and conditions, are payable, if the enforcement activities are not of a type routinely undertaken or of a type required by law as part of the affected local government's normal regulatory responsibilities.

(e) Litigation costs which, but for the operation of a certified local coastal program, would not have been incurred may be paid. Where an action is brought against a local government and such action states as a principal cause of action the operation of such local government's local coastal program and the local government prevails in such action, litigation costs may be paid to the extent such costs are not assessed against the party bringing the action. Where the local government loses such action primarily on grounds it has failed to properly carry out its certified local coastal program, litigation costs shall not be paid.

(f) If additional planning is required by the commission as a condition of its certification of any local coastal program, costs for such additional planning are payable.

SEC. 6. Section 30512 of the Public Resources Code is amended to read:

30512. (a) The land use plan of a proposed local coastal program shall be submitted to the regional commission. The regional commission shall, within 90 days after the submittal, after public hearing, either approve or disapprove, in whole or in part, the land use plan. If the proposed land use plan is not acted upon within the 90-day period, it shall be deemed approved by the regional commission.

(b) Where a land use plan is disapproved, in whole or in part, the regional commission shall provide a written explanation and may suggest ways in which to modify the disapproved provisions. A local government may revise a disapproved land use plan and resubmit the revised version to the regional commission or it may appeal either the disapproved portion or revised version thereof to the commission. Where the proposed land use plan is approved, in whole or in part, the land use plan or the approved portion thereof shall, within 10 working days of final regional commission action of approval, be forwarded by the regional commission to the commission for certification.

(c) The commission shall, not more than 45 days after a land use plan has been submitted or appealed to it, determine by majority vote of those present, after a public hearing, whether specific provisions of the land use plan raise a substantial issue as to

conformity with the policies of Chapter 3 (commencing with Section 30200). If the commission finds no substantial issue, the decision of the regional commission shall be final, and in the case of regional commission approvals, the land use plan shall be deemed certified. If the commission determines a substantial issue is raised, it shall, following public hearing and within 60 days from receipt of the land use plan, either refuse certification or certify, in whole or in part, the land use plan by a majority vote of the total appointed membership.

(d) If the commission refuses certification, in whole or in part, it shall send a written explanation for such action to the appropriate local government and regional commission. A revised land use plan may be resubmitted directly to the commission for certification.

(e) A regional commission shall approve and the commission shall certify, or the commission shall approve and certify where there is no regional commission, a land use plan, or any amendments thereto, if such commission finds that a land use plan meets the requirements of, and is in conformity with, the policies of Chapter 3 (commencing with Section 30200).

SEC. 7. Section 30610.2 of the Public Resources Code is amended to read:

30610.2. (a) Any person wishing to construct a single-family residence on a vacant lot within an area designated by the commission pursuant to subdivision (b) of Section 30610.1 shall, prior to the commencement of construction, secure from the local government with jurisdiction over the lot in question a written certification or determination that such lot meets the criteria specified in subdivision (c) of Section 30610.1 and is therefore exempt from the coastal development permit requirements of this division. A copy of every such certification of exemption shall be sent by the issuing local government to the appropriate regional commission within five working days after it is issued.

(b) In the event that the commission does not designate the areas within the coastal zone as required by subdivision (b) of Section 30610.1 within the 60 days specified therein, a local government may make the certification authorized by subdivision (a) of this section without regard to the requirements of subdivision (b) of Section 30610.1.

SEC. 8. Section 30610.5 of the Public Resources Code is amended to read:

30610.5. Urban land areas shall, pursuant to the provisions of this section, be excluded from the permit provisions of this chapter.

(a) Upon the request of a local government, an urban land area, as specifically identified by such local government, shall, after public hearing, be excluded by the commission from the permit provisions of this chapter where both of the following conditions are met:

(1) The area to be excluded is either a residential area zoned and developed to a density of four or more dwelling units per acre on or before January 1, 1977, or a commercial or industrial area zoned and developed for such use on or before January 1, 1977.

(2) The commission finds both of the following:

(i) Locally permitted development will be infilling or replacement and will be in conformity with the scale, size, and character of the surrounding community.

(ii) There is no potential for significant adverse effects, either individually or cumulatively, on public access to the coast or on coastal resources from any locally permitted development; provided, however, that no area may be excluded unless more than 50 percent of the lots are built upon, to the same general density or intensity of use.

(b) Every exclusion granted under subdivision (a) of this section and subdivision (e) of Section 30610 shall be subject to terms and conditions to assure that no significant change in density, height, or nature of uses will occur without further proceedings under this division, and an order granting an exclusion under subdivision (e) of Section 30610, but not under subdivision (a) of this section may be revoked at any time by the commission, if the conditions of exclusion are violated. Tide and submerged land, beaches, and lots immediately adjacent to the inland extent of any beach, or of the mean high tide line of the sea where there is no beach, and all lands and waters subject to the public trust shall not be excluded under either subdivision (a) of this section or subdivision (e) of Section 30610.

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 ensure that there is no ambiguity in the application of certain provisions of the Coastal Act of 1976 with regard to the coastal permit and planning work now under way and with regard to the local coastal program voting requirements, it is necessary that this act take effect immediately.

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## CHAPTER 1088

An act to amend Section 3541 of the Government Code, relating to the Public Employment Relations Board.

[Approved by Governor September 25, 1980 Filed with  
Secretary of State September 26, 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 five 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. The first term for the two new members of the board resulting from the expansion of the board to five members shall be reduced by the Governor as necessary so that the term of only one member of the board shall expire in any given year. 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 three members of the board shall at all times constitute a quorum.

(c) The board may delegate its powers to any group of three or more board members. Nothing shall preclude any board member from participating in any case pending before the board.

(d) Members of the board shall hold no other public office in the state, and shall not receive any other compensation for services rendered.

(e) 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.

(f) The board 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 board. 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.

(g) 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.

(h) 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.

(i) Attorneys serving the board on May 19, 1978, shall not be appointed as legal advisers to board members pursuant to subdivision (h) until such time as they have attained permanent civil service status.

(j) 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.

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## CHAPTER 1089

An act to amend Sections 11754, 11961, 11962, 11963, 11981, 11983, 11987, and 11993 of, to add Sections 1204.5, 11864, and 11964 to, to add and repeal Section 11862 of, and to repeal Section 11871 of, the Health and Safety Code, to amend Sections 5606.5, 5650, 5652, 5701, and 5750 of, and to repeal Sections 5606.6 and 5764.5 of, the Welfare and Institutions Code, relating to drug abuse.

[Approved by Governor September 25, 1980 Filed with  
Secretary of State September 26, 1980 ]

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

SECTION 1. Section 1204.5 is added to the Health and Safety Code, to read:

1204.5. (a) In addition to the types of clinics specified in Section 1204, substance abuse clinics shall be eligible for licensure under this chapter, and shall be deemed to be a category of specialty clinic within the meaning of subdivision (b) of Section 1204. Any reference in any statute to Section 1204 shall be deemed and construed to also be a reference to this section.

(b) As used in this section, "substance abuse clinic" means a clinic which provides specialized outpatient medical services for treatment of patients for abuse of controlled substances or other drugs, or for problems related to such abuse. Services which may be provided by substance abuse clinics additionally include methadone maintenance services, drug-free services, psychotherapy and counseling, and other services medically necessary for patients of the clinic.

SEC. 1.2. Section 11754 of the Health and Safety Code is amended to read:

11754. (a) Notwithstanding any other provision of law, the state

department shall be the single state agency authorized to receive any federal funds payable directly to the state by the National Institute on Alcohol Abuse and Alcoholism to implement programs which provide services to alleviate the problems related to the inappropriate use of alcoholic beverages.

(b) The state department shall be the single state agency authorized to receive any federal funds payable directly to the state by the National Institute on Drug Abuse to implement programs which provide services to alleviate the problems related to the use of other drugs.

(c) The state department may receive other federal funds and expend them pursuant to the provisions of this division, the Budget Act or other statutes.

(d) Notwithstanding any other provision of law, the state department shall develop and implement an effective process for distributing federal funds to private or county drug abuse treatment or prevention programs, or both. The department shall distribute these funds through formal written agreements, including grants, subgrants, contracts, or agreements which shall assure that the funds are distributed in a timely and effective manner pursuant to the Budget Act.

SEC. 1.5. Section 11862 is added to the Health and Safety Code, to read:

11862. (a) There is in state government a State Advisory Board on Drug Programs which shall consist of 15 members, of which five members shall be appointed by the Governor, five members by the Senate Rules Committee, and five members by the Speaker of the Assembly.

(b) Initial appointments to the advisory board shall be made as follows:

(1) The Governor shall appoint two members for one-year terms, two members for two-year terms, and one member for a three-year term.

(2) The speaker shall appoint two members for one-year terms, one member for a two-year term, and two members for three-year terms.

(3) The Senate Rules Committee shall appoint one member for a one-year term, two members for two-year terms, and two members for three-year terms.

(4) Subsequent appointments shall be made as prescribed in subdivision (a) for a term of three years.

(c) Members shall have a professional or personal interest in, and commitment to, alleviating drug problems, and shall include representatives of law enforcement agencies, public drug programs, private drug programs, education, and the general public. It is the intent of the Legislature that the appointing powers make appointments that include representatives of nongovernmental organizations or groups and of public agencies concerned with the prevention and treatment of drug abuse and drug dependence, from

various economic, social, and occupational groups, and allow for the geographic distribution of members throughout the state. Representatives from public and private drug prevention or treatment programs shall not comprise more than 33 $\frac{1}{3}$  percent of the total membership. Such members shall comply with existing conflict of interest laws when participating in the tasks and functions of the board.

(d) The board shall constitute the drug abuse prevention advisory council as described in federal Public Laws 92-255 and 94-237, as amended. In the interest of continuity relating to the functions of the board pursuant to subdivision (j), those members of the former Technical Advisory Committee/Drug Abuse Prevention Advisory Council reconstituted by this part, and who have remaining terms of one or two years, shall be considered in the appointments under this section.

(e) The board shall meet at least once every three months and may meet as often as required, as a full board or in committees, to implement the provisions of this section. All meetings of the board, and any committees thereof, shall be open to the public and adequate notice shall be provided in advance to interested persons.

(f) The members shall select the chair of the board annually and adopt by-laws as appropriate to carry out their duties.

(g) Members of the board shall serve without compensation, but shall receive reimbursement for travel and other necessary expenses actually incurred in the performance of their official duties.

(h) The board shall have the powers and authority necessary to carry out the duties imposed upon it by this chapter, including, but not limited to, the following:

(1) Advise the director on the major policy issues relating to the implementation by the department of the provisions of this part and on any other related matters that the director refers to it, or that the board may raise, encourage public understanding of the nature of drug problems, and encourage support throughout the state for the development and implementation of effective drug programs. Upon request of the chair of the board, the department shall respond in writing to the board regarding each of its recommendations.

(2) Periodically review drug abuse services in California.

(3) Recommend to the director rules, regulations, and standards for the administration of this division.

(4) Review the annual state and federal drug abuse plans and budgets, and all amendments thereto, and advise the director on the development of the state drug abuse plan and the system of priorities contained in that plan.

(5) Submit an annual report to the department and the Legislature in December of each year which describes its accomplishments and includes its recommendations regarding the department's role in alleviating drug problems.

(i) The department shall provide such administrative, technical, and other personnel as may be necessary for the board's

performance of its powers and duties.

(j) The department shall provide appropriate training to the board members relating to their charge so as to assure their understanding of the state drug program. It is the intent of the Legislature that each member of the board learn about the elements of the drug program and the nature of drug problems in his or her county of residence, to assist him or her in understanding the major policies to be examined by the board.

(k) This section shall remain in effect until December 31, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered on or before September 30, 1983, deletes or extends such date.

SEC. 2. Section 11864 is added to the Health and Safety Code, to read:

11864. (a) The purposes of any regulations adopted by the department shall be to implement, interpret, or make specific the provisions of this part and shall not exceed the authority granted to the department pursuant to this part. To the extent possible, such regulations shall be written in clear and concise language and adopted only when necessary to further the purposes of this part.

(b) Except as provided in this section, the department shall have the power to adopt regulations in accordance with the provisions of the Administrative Procedure Act necessary for the proper execution of the powers and duties granted to and imposed upon the department by this part. However, such regulations may be adopted only upon the following conditions:

(1) The department shall present to the State Advisory Board on Drug Programs at a meeting of the board the justification for considering regulations prior to the drafting and adoption of such specified regulations. Subsequent to presentation to and discussion with the board, the department shall decide whether to proceed with the drafting and adoption of such regulations.

(2) The department shall consult with the county drug program administrators or their designees in establishing and adopting regulations, and may consult with any other appropriate persons relating to such proposed regulations.

(3) If an absolute majority of the county drug program administrators, or their designees, who represent counties which have submitted county drug plans, vote at a public meeting called by the department and posted publicly for the prior 45 days, at a time mutually agreed upon by the department and county drug program administrators, to reject such proposed regulations, the department shall refer the matter for a decision to a committee composed of five persons, consisting of a representative of the board, a representative of the administrators, the director, the secretary, and one designee of the secretary. Such decision shall be made by a majority vote of such committee at a public meeting convened by the department. Upon a majority vote of such committee recommending adoption of such proposed regulations, the department may then adopt them.

Upon a majority vote recommending that the department not adopt such proposed regulations, the department shall then consult again with the county administrators and advisory board and resubmit the proposed regulations to the administrators for a vote pursuant to this subdivision.

(4) In the voting process of the committee described in paragraph (3), no proxies shall be allowed nor may anyone other than the designated county administrator, representative of the board, director, secretary, and secretary's designee vote at such meetings.

SEC. 3. Section 11871 of the Health and Safety Code is repealed.

SEC. 4. Section 11961 of the Health and Safety Code is amended to read:

11961. As used in this chapter:

(a) "Administrator" means the county drug program administrator designated pursuant to Section 11962.

(b) "Advisory board" means the county advisory board established pursuant to Section 11964.

(c) "County Short-Doyle drug program plan" means the drug program portion of the county Short-Doyle Plan, as required pursuant to Chapter 2 (commencing with Section 5650) of Part 2 of Division 5 of the Welfare and Institutions Code.

SEC. 5. Section 11962 of the Health and Safety Code is amended to read:

11962. The board of supervisors shall designate a drug program administrator and shall determine the administrative level, responsibility, and authority of such a position. The position of the drug program administrator may be either full- or part-time, or part of other assigned duties. The drug program administrator shall be a qualified professional who has the ability, training, or experience to administer or coordinate and monitor the county drug program.

SEC. 6. Section 11963 of the Health and Safety Code is amended to read:

11963. The county drug program administrator shall have the following powers and duties:

(a) He or she shall be responsible for the preparation of the county Short-Doyle drug program plan.

(b) He or she shall exercise general supervision over the drug program services provided under the county Short-Doyle plan.

(c) He or she shall recommend to the board of supervisors, after consultation with the advisory committee, the provision of services, establishment of facilities, contracting for services or facilities and other matters necessary or desirable in accomplishing the purposes of this chapter.

(d) He or she shall submit an annual report to the board of supervisors reporting all activities of the drug program, including a financial accounting of expenditures and a forecast of anticipated needs for the ensuing year.

(e) He or she shall carry on such studies as may be appropriate to the discharge of his or her duties.

(f) He or she shall be responsible for the ongoing coordination of all public and private drug abuse programs and services in the county.

(g) He or she shall administer all drug program funds allocated to the county under this chapter. All drug program funds allocated by the department to programs or projects within the county shall be expended only with the prior certification by the drug program administrator, the county advisory board on drug programs, and notification to the board of supervisors that the program allocation is consistent with the priorities in the approved county Short-Doyle drug program plan.

(h) He or she shall be responsible to the board of supervisors, through administrative channels designated by the board of supervisors, for the drug program of the county.

(i) He or she shall be responsible for the planning and consultation process for the adoption of regulations as required by the department pursuant to Section 11864.

(j) He or she may participate with a majority of the other county drug program administrators in forming an association of county drug program administrators for the purposes of representing the counties in their relationship with the state on drug abuse services with respect to policies, standards, and administration.

SEC. 7. Section 11964 is added to the Health and Safety Code, to read:

11964. (a) Except as provided in subdivision (b), each county shall have an advisory board on drug programs composed of not less than seven members appointed by the board of supervisors. Members shall have a professional interest in, or personal commitment to, alleviating problems related to drug abuse in their community. The membership shall include representatives from various economic, social, and occupational groups and shall be broadly representative of the demographic characteristics of the county.

The advisory board shall be independent from any other advisory board established pursuant to any provision of state law. However, the advisory board shall coordinate its efforts, where appropriate, with other county advisory boards concerned with drug problems.

This subdivision shall apply only to counties the population of which exceeds 125,000.

(b) In counties where the population does not exceed 125,000, the board of supervisors shall appoint an advisory board which shall be composed of not less than seven members which may be independent, under the jurisdiction of another health-related advisory board established pursuant to any provision of state law, or has the same membership as such other advisory board or agency. It is the intent of the Legislature that such boards meet the same membership requirements described in subdivision (a).

(c) If two or more counties the combined population of which exceeds 200,000 jointly apply to the department for funds under this

part, the advisory board for its drug program shall consist of not less than 15 members, and shall otherwise be subject to the requirements of subdivision (a). If the combined population of such counties does not exceed 200,000, the requirements of subdivision (b) shall apply to such counties.

(d) The Legislature recognizes that persons employed by programs which provide drug abuse services and members of their boards of directors have a great deal of knowledge and experience to share with other people in the community concerned with alleviating drug abuse problems. The Legislature also recognizes that there are many people in the community who have knowledge about, or interest or experience in, alleviating drug problems who do not have any direct or indirect financial or other relationship to drug programs in the county. The Legislature desires to include both groups of such persons on advisory boards and also to establish control for real or apparent conflicts of interest that might arise.

Therefore, there may be at least two representatives of a public or private drug abuse program, and such members shall comply with existing conflict of interest laws when participating in the tasks and functions of the board. The advisory board shall not include in excess of 33 $\frac{1}{3}$  percent of its membership any person, or his or her spouse who is any of the following:

(1) A member of a board of directors or advisory body or employee of any county operated or county contract provider of drug services, or of any program approved pursuant to Section 11876.

(2) A direct recipient of any state funds allocated under this part pursuant to a contract with the department, which shall include compensation for contracted services or membership on an advisory body or board of directors of such recipient agency.

(e) Except as required under subdivision (b), the advisory board shall not include any person or his or her spouse who is any of the following:

(1) A member of the board of supervisors or a person on the staff of a member of the board of supervisors.

(2) A county employee of the health-related agency or department, with which the drug program administrator designated pursuant to Section 11962 may be affiliated.

The board of supervisors may, by resolution, designate further categories of persons who may not serve on the board, provided that such prohibitions are consistent with the intent of this section. It is the intent of the Legislature in authorizing the board of supervisors to designate such further categories that the integrity of and the community's confidence in the advisory board be maintained.

(f) In the event that prior to the expiration of his or her term, a member ceases to retain the status which qualified him or her for appointment to the advisory board, his or her membership on the advisory board shall terminate and there shall be a vacancy on the advisory board to be filled by the board of supervisors.

(g) The members of the advisory board may be removed for cause

pursuant to standards adopted by the advisory board which are consistent with the provisions of this article and which are approved by the board of supervisors.

(h) Each member of the board shall be appointed for a term of three years. Persons appointed as members of the drug advisory board established pursuant to Section 5606.5 of the Welfare and Institutions Code may continue to serve until the expiration of their terms, provided that they meet the other conditions for membership required pursuant to this article.

(i) The advisory board shall meet at least bimonthly and may meet at such other times as may be deemed necessary by the chair or drug program administrator. The members of the advisory board shall serve without compensation, but may be reimbursed for any actual and necessary expenses incurred in connection with their duties under this article. However, the members may receive compensation out of county funds at the option of the board of supervisors.

(j) All meetings of the advisory board shall be open to the public and shall be subject to the provisions of Chapter 9 (commencing with Section 54950) of Part 1 of Division 2 of Title 5 of the Government Code, relating to meetings of local agencies.

(k) The advisory board shall:

(1) Participate in the planning process pursuant to Section 5651 of the Welfare and Institutions Code.

(2) Review the drug program component of the county Short-Doyle plan, and any amendments thereto pursuant to Sections 5606.5 and 5652 of the Welfare and Institutions Code.

(3) Advise the county drug program administrator on policies and goals of the county drug program and on any other related matters the drug program administrator refers to it, or which are raised by the advisory board.

(4) Encourage and educate the public to understand the nature of drug problems, and encourage support throughout the county for development and implementation of effective drug abuse programs.

(5) Review and generically evaluate the community's drug program needs, services, facilities, and special programs.

(6) Review and approve the procedures used to insure citizen and professional involvement at all stages of the planning process leading to the formulation and adoption of the county drug portion of the county Short-Doyle plan.

SEC. 8. Section 11981 of the Health and Safety Code is amended to read:

11981. The state department shall coordinate state and local narcotics and drug abuse prevention, care, treatment, and rehabilitation programs. It is the intent of the Legislature that the department and the counties maintain a cooperative partnership to assure effective implementation of the provisions of this division as described in Section 11756 of this code and in Part 2 (commencing with Section 5600) of Division 5 of the Welfare and Institutions Code.

SEC. 9. Section 11983 of the Health and Safety Code is amended to read:

11983. The state department shall develop and implement a comprehensive and uniform plan for the prevention, care, treatment, and rehabilitation of drug dependency and abuse throughout the state, shall take into consideration the community needs set forth in the county Short-Doyle drug abuse plans, and shall provide guidelines to the counties relating to program funding priorities for each fiscal year.

Each county drug abuse plan and program budget prepared pursuant to Part 2 (commencing with Section 5600) of Division 5 of the Welfare and Institutions Code shall be reviewed by the state department according to the provisions of Section 5752 of the Welfare and Institutions Code, and the guidelines and regulations adopted by the state department pursuant to this part.

If, after the review specified above, the county Short-Doyle drug abuse plan is approved, the director shall determine the amount of state funds available for each county for specific services under the approved county plan, from the funds appropriated for drug abuse services in the Budget Act for such fiscal year as enacted into law. If the amount appropriated in the Budget Act for such fiscal year as enacted into law differs from the amount in the budget submitted by the Governor for such fiscal year, each county shall submit an additional revised plan in the form and at the time required by the state department.

SEC. 10. Section 11987 of the Health and Safety Code is amended to read:

11987. (a) The state department shall, in the same manner and subject to the same conditions as other state agencies, develop and submit annually to the Department of Finance a program budget for the statewide narcotics and drug abuse program, including not only expenditures proposed to be made under this division, but also expenditures proposed to be made under related programs or by any other state agency, incidental to the prevention, control, and treatment of narcotics and drug abuse. The state department may require state agencies to contract with it for services to carry out provisions of this division.

(b) Drug abuse program expenditures made by counties and cities pursuant to Part 2 (commencing with Section 5600) of Division 5 of the Welfare and Institutions Code shall be paid by the state pursuant to the provisions of Chapter 3 (commencing with Section 5700) of Part 2 of Division 5 of the Welfare and Institutions Code.

Moneys, funds and appropriations available to the state department for the purposes of this part shall be made available to the State Department of Mental Health by the director for the purposes of processing and certification for payment of claims for drug abuse expenditures made by counties under this part, until such time as the Health and Welfare Agency determines that it is more cost effective and practicable for the State Department of Alcohol

and Drug Programs to assume these functions.

(c) Expenditures subject to payment shall include expenditures for salaries of personnel; approved facilities and services provided through contract; operation, maintenance, and service costs; depreciation of county facilities as established in the state's uniform accounting manual, disregarding depreciation on such a facility to the extent it was financed by state funds under this part; and such other expenditures as may be incurred by the director. It shall not include expenditures for initial capital improvements; the purchase or construction of buildings except for such equipment items and remodeling and construction expenses as may be provided for in regulation by the state; compensation to members of a local drug program advisory board (except actual and necessary expenses incurred in the performance of official duties); or expenditures for a purpose for which state reimbursement is claimed under any other provision of law.

SEC. 11. Section 11993 of the Health and Safety Code is amended to read:

11993. Notwithstanding any other provision of law, the state department may provide advance payment of federal funds, to the extent permitted by formal written agreement between the federal government and the state department or permitted by the terms of any federal grant administered by the state department, to private nonprofit or county drug abuse treatment and prevention programs which are under subcontract with the state department, or may provide advance payments of state funds to counties under Division 5 (commencing with Section 5000) of the Welfare and Institutions Code or to private nonprofit agencies. The department shall develop a plan, approved by the Department of Finance, for determining and controlling advance payments.

SEC. 12. Section 5606.5 of the Welfare and Institutions Code is amended to read:

5606.5. Each county shall have an advisory board on drug programs as described in Section 11964 of the Health and Safety Code. The advisory board shall review the drug program portion of the county Short-Doyle plan, and review and approve the procedures used to insure citizen and professional involvement at all stages of the planning process leading to the formulation and adoption of the drug program portion of the county Short-Doyle plan, pursuant to subdivision (i) of Section 5651. Such review and approval shall be in lieu of the review and approval of the local mental health advisory board.

SEC. 13. Section 5606.6 of the Welfare and Institutions Code is repealed.

SEC. 14. 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 drug program portion of the county Short-Doyle plan, shall, however, be submitted to the Director of Alcohol and Drug Programs. 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, 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.

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. 15. Section 5652 of the Welfare and Institutions Code is amended to read:

5652. When the county Short-Doyle plan is submitted to the Director of the State Department of Mental Health it shall be accompanied by a document indicating the plan has been reviewed by the local mental health advisory board. When the drug program portion of the county Short-Doyle plan is submitted to the Director of Alcohol and Drug Programs, it shall be accompanied by a document indicating that the plan has been reviewed by the county advisory board on drug abuse.

SEC. 16. Section 5701 of the Welfare and Institutions Code is amended to read:

5701. A single appropriation shall be made to the State Department of Mental Health for mental health services and a single appropriation shall be made to the State Department of Alcohol and Drug Programs for drug abuse services under the Short-Doyle Act.

SEC. 17. Section 5750 of the Welfare and Institutions Code is amended to read:

5750. The State Department of Mental Health shall administer this part and shall adopt standards for approval of mental health services, and rules and regulations necessary thereto; provided, however, that such standards, rules and regulations shall be adopted

only after consultation with the Citizens Advisory Council and the California Conference of Local Mental Health Directors. Such consultation shall also be with the Department of Alcohol and Drug Programs, for those standards, rules and regulations related to drug abuse services, after the State Department of Alcohol and Drug Programs has complied with subdivision (b) of Section 11864 of the Health and Safety Code. Adoption of such standards, rules and regulations shall require approval by the California Conference of Local Mental Health Directors by majority vote of those present at an official session.

If the conference refuses or fails to approve standards, rules, or regulations submitted to it by the State Department of Mental Health for its approval, the State Department of Mental Health may submit such standards, rules, or regulations to the conference at its next meeting, and if the conference again refuses to approve them, the matter shall be referred for decision to a committee composed of the Secretary of the Health and Welfare Agency, the Director of Mental Health, the President of the California Conference of Local Mental Health Directors, the Chairman of the Citizens Advisory Council, and a member designated by the State Advisory Health Council.

SEC. 18. Section 5764.5 of the Welfare and Institutions Code is repealed.

SEC. 19. 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.

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## CHAPTER 1090

An act to amend Section 484 of the Penal Code, relating to theft by fraud.

[Approved by Governor September 25, 1980 Filed with  
Secretary of State September 26, 1980.]

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

SECTION 1. Section 484 of the Penal Code is amended to read:  
484. (a) Every person who shall feloniously steal, take, carry, lead, or drive away the personal property of another, or who shall fraudulently appropriate property which has been entrusted to him, or who shall knowingly and designedly, by any false or fraudulent representation or pretense, defraud any other person of money, labor or real or personal property, or who causes or procures others

to report falsely of his wealth or mercantile character and by thus imposing upon any person, obtains credit and thereby fraudulently gets or obtains possession of money, or property or obtains the labor or service of another, is guilty of theft. In determining the value of the property obtained, for the purposes of this section, the reasonable and fair market value shall be the test, and in determining the value of services received the contract price shall be the test. If there be no contract price, the reasonable and going wage for the service rendered shall govern. For the purposes of this section, any false or fraudulent representation or pretense made shall be treated as continuing, so as to cover any money, property or service received as a result thereof, and the complaint, information or indictment may charge that the crime was committed on any date during the particular period in question. The hiring of any additional employee or employees without advising each of them of every labor claim due and unpaid and every judgment that the employer has been unable to meet shall be prima facie evidence of intent to defraud.

(b) Except as provided in Section 10855 of the Vehicle Code, intent to commit theft by fraud is presumed if one who has leased or rented the personal property of another pursuant to a written contract fails to return the personal property to its owner within 20 days after the owner has made written demand by certified or registered mail following the expiration of the lease or rental agreement for return of the property so leased or rented.

(c) Notwithstanding the provisions of subdivision (b), if one presents with criminal intent identification which bears a false or fictitious name or address for the purpose of obtaining the lease or rental of the personal property of another, the presumption created herein shall apply upon the failure of the lessee to return the rental property at the expiration of the lease or rental agreement, and no written demand for the return of the leased or rented property shall be required.

(d) The presumptions created by subdivisions (b) and (c) are presumptions affecting the burden of producing evidence.

(e) Within 30 days after the lease or rental agreement has expired, the owner shall make written demand for return of the property so leased or rented. Notice addressed and mailed to the lessee or renter at the address given at the time of the making of the lease or rental agreement and to any other known address shall constitute proper demand. Where the owner fails to make such written demand the presumption created by subdivision (b) shall not apply.

## CHAPTER 1091

An act to amend Sections 3709 and 3715 of, and to add Sections 3708.5 and 3709.5 to, the Labor Code, relating to workers' compensation.

[Approved by Governor September 25, 1980 Filed with  
Secretary of State September 26, 1980 ]

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

SECTION 1. Section 3708.5 is added to the Labor Code, to read:

3708.5. If an employee brings such an action for damages, the employee shall forthwith give a copy of the complaint to the Uninsured Employers Fund of the action by personal service or certified mail. Proof of such service shall be filed in such action. If a civil action has been initiated against the employer pursuant to Section 3717, the actions shall be consolidated.

SEC. 2. Section 3709 of the Labor Code is amended to read:

3709. If, as a result of such action for damages, a judgment is obtained against the employer, any compensation awarded, paid, or secured by the employer shall be credited against the judgment. The court shall allow as a first lien against such judgment the amount of compensation paid by the director from the Uninsured Employers Fund pursuant to Section 3716.

Such judgment shall include a reasonable attorney's fee fixed by the court. The director, as administrator of the Uninsured Employers Fund, shall have a first lien against any proceeds of settlement in such action, before or after judgment, in the amount of compensation paid by the director from the Uninsured Employers Fund pursuant to Section 3716.

No satisfaction of a judgment in such action, in whole or in part, shall be valid as against the director without giving the director notice and a reasonable opportunity to perfect and satisfy his lien.

SEC. 3. Section 3709.5 is added to the Labor Code, to read:

3709.5. After the payment of attorney's fees fixed by the court, the employer shall be relieved from the obligation to pay further compensation to or on behalf of the employee under this division up to the entire amount of the balance of the judgment, if satisfied, or such portion as has been satisfied.

After the satisfaction by the employer of the attorney's fees fixed by the court, the Uninsured Employers Fund shall be relieved from the obligation to pay further compensation to or on behalf of the employee pursuant to Section 3716, up to the entire amount of the balance of the judgment, if satisfied, or such portion as has been satisfied.

The appeals board shall allow as a credit to the employer and to the Uninsured Employers Fund, to be applied against the liability for compensation, the amount recovered by the employee in such

action, either by settlement or after the judgment, as has not been applied to the expense of attorney's fees and costs.

SEC. 4. 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 article 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 amendments to this section by Chapter 17 of the Statutes of 1977, 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. 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 amendments to this section by Chapter 17 of the Statutes of 1977, 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. 6. It is the intent of the Legislature if this bill and Assembly Bill 2368 are both chaptered and become effective January 1, 1981, both bills amend Section 3715 of the Labor Code, and this bill is chaptered after Assembly Bill 2368, 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 5 of this act. Therefore, Section 5 of this act shall become operative only if this bill and Assembly Bill 2368 are both chaptered and become effective January

1, 1981, both amend Section 3715, and this bill is chaptered after Assembly Bill 2368, in which case Section 4 of this act shall not become operative.

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## CHAPTER 1092

An act to amend Sections 308 and 627 of, and to repeal and add Section 800 of, the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor September 25, 1980. Filed with Secretary of State September 26, 1980.]

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

SECTION 1. Section 308 of the Welfare and Institutions Code is amended to read:

308. (a) When an officer takes a minor before a probation officer pursuant to this article, he shall take immediate steps to notify the minor's parent, guardian, or a responsible relative that such minor is in custody and the place where he is being held.

(b) Immediately after being taken to a place of confinement pursuant to this article and, except where physically impossible, no later than one hour after he has been taken into custody, the minor shall be advised and has the right to make at least two telephone calls from the place where he is being held, one call completed to his parent or guardian, a responsible relative, or his employer, and another call completed to an attorney. The calls shall be at public expense, if the calls are completed to telephone numbers within the local calling area, and in the presence of a public officer or employee. Any public officer or employee who willfully deprives a minor taken into custody of his right to make such telephone calls is guilty of a misdemeanor.

SEC. 2. Section 627 of the Welfare and Institutions Code is amended to read:

627. (a) When an officer takes a minor before a probation officer at a juvenile hall or to any other place of confinement pursuant to this article, he shall take immediate steps to notify the minor's parent, guardian, or a responsible relative that such minor is in custody and the place where he is being held.

(b) Immediately after being taken to a place of confinement pursuant to this article and, except where physically impossible, no later than one hour after he has been taken into custody, the minor shall be advised and has the right to make at least two telephone calls from the place where he is being held, one call completed to his parent or guardian, a responsible relative, or his employer, and another call completed to an attorney. The calls shall be at public expense, if the calls are completed to telephone numbers within the

local calling area, and in the presence of a public officer or employee. Any public officer or employee who willfully deprives a minor taken into custody of his right to make such telephone calls is guilty of a misdemeanor.

SEC. 3. Section 800 of the Welfare and Institutions Code is repealed.

SEC. 4. Section 800 is added to the Welfare and Institutions Code, to read:

800. A judgment or decree of a juvenile court or final order of a referee which becomes effective without approval of a judge of the juvenile court assuming jurisdiction and declaring any person to be a person described in Section 601 or 602, or on denying a motion made pursuant to Section 262, may be appealed from in the same manner as any final judgment, and any subsequent order may be appealed from as from an order after judgment. Pending appeal of such order or judgment, the granting or refusal to order release shall rest in the discretion of the juvenile court. Such appeal shall have precedence over all other cases in the court to which the appeal is taken.

An appellant unable to afford counsel shall be provided a free copy of the transcript.

All appeals shall be initiated by the filing of a notice of appeal in conformity with the requirements of Section 1240.1 of the Penal 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.

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## CHAPTER 1093

An act to amend Section 801 and to repeal Section 1426a of the Penal Code, relating to limitation of prosecution.

[Approved by Governor September 25, 1980. Filed with  
Secretary of State September 26, 1980.]

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

SECTION 1. Section 801 of the Penal Code is amended to read:

801. (a) Except as provided in subdivision (b), an indictment for any misdemeanor shall be found or an information or complaint filed within one year after its commission.

(b) For an offense for which a misdemeanor complaint may be filed or that may be tried as a misdemeanor, pursuant to paragraphs

(4) and (5) of subdivision (b) of Section 17, respectively, a complaint shall be filed within the time specified in Section 800 for such offense.

SEC. 2. Section 1426a of the Penal Code is repealed.

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CHAPTER 1094

An act to amend Section 26500 of the Government Code, and to amend Sections 853.6, 853.6a, and 853.9 of the Penal Code, relating to prosecution of crimes.

[Approved by Governor September 25, 1980 Filed with  
Secretary of State September 26, 1980 ]

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

SECTION 1. Section 26500 of the Government Code is amended to read:

26500. The district attorney is the public prosecutor, except as otherwise provided by law.

The public prosecutor shall attend the courts, and within his or her discretion shall initiate and conduct on behalf of the people all prosecutions for public offenses.

SEC. 2. Section 853.6 of the Penal Code is amended to read:

853.6. (a) In any case in which a person is arrested for an offense declared to be a misdemeanor and does not demand to be taken before a magistrate, such person may, instead of being taken before a magistrate, be released according to the procedures set forth by this chapter. If the arresting officer or his superior determines that the person should be released, such officer or superior shall prepare in duplicate a written notice to appear in court, containing the name and address of such person, the offense charged, and the time and place where and when such person shall appear in court. If the person is not released prior to being booked and the officer in charge of the booking or his superior determines that the person should be released, such officer or superior shall prepare such written notice to appear in a court.

(b) Unless waived by the person, the time specified in the notice to appear must be at least 10 days after arrest.

(c) The place specified in the notice shall be the court of the magistrate before whom the person would be taken if the requirement of taking an arrested person before a magistrate were complied with, or shall be an officer authorized by such court to receive a deposit of bail.

(d) The officer shall deliver one copy of the notice to appear to the arrested person, and the arrested person, in order to secure release, must give his written promise so to appear in court by signing the duplicate notice which shall be retained by the officer. Thereupon the arresting officer shall forthwith release the person

arrested from custody.

(e) The officer shall, as soon as practicable, file the duplicate notice and underlying police reports in support of the charge or charges with the prosecuting attorney. Within 5 days from the time of arrest the prosecutor, within his or her discretion, may initiate prosecution by filing the notice or a formal complaint with the magistrate specified therein. If the prosecution is not to be initiated, the prosecutor shall send notice to the person arrested at the address on the notice to appear. Thereupon the magistrate may fix the amount of bail which in his judgment, in accordance with the provisions of Section 1275 of the Penal Code, will be reasonable and sufficient for the appearance of the defendant and shall indorse upon the notice a statement signed by him in the form set forth in Section 815a of this code. The defendant may, prior to the date upon which he promised to appear in court, deposit with the magistrate the amount of bail thus set. Thereafter, at the time when the case is called for arraignment before the magistrate, if the defendant shall not appear, either in person or by counsel, the magistrate may declare the bail forfeited, and may in his discretion order that no further proceedings shall be had in such case, unless the defendant has been charged with violation of Section 374b or 374e of this code or of Section 11357, 11360, or 13002 of the Health and Safety Code, or a violation punishable under Section 5008.7 of the Public Resources Code, and he has previously been convicted of a violation of such section or punishable under such section, except in cases where the magistrate finds that undue hardship will be imposed upon the defendant by requiring him to appear, the magistrate may declare the bail forfeited and order that no further proceedings shall be had in such case.

Upon the making of such order that no further proceedings be had, all sums deposited as bail shall forthwith be paid into the county treasury for distribution pursuant to Section 1463 of this code.

(f) No warrant shall issue on such charge for the arrest of a person who has given such written promise to appear in court, unless and until he has violated such promise or has failed to deposit bail, to appear for arraignment, trial or judgment, or to comply with the terms and provisions of the judgment, as required by law.

(g) The officer shall indicate on the notice to appear whether he desires the arrested person to be booked as defined in subdivision 21 of Section 7 of this code. In such event, the magistrate shall, before the proceedings are finally concluded, order the defendant to be booked by the arresting agency.

(h) A peace officer may use the written notice to appear procedure set forth in this section for any misdemeanor offense in which the officer has arrested a person pursuant to Section 836 or in which he has taken custody of a person pursuant to Section 847.

(i) If the arrested person is not released pursuant to the provisions of this chapter prior to being booked by the arresting agency, then at the time of booking the arresting officer, the officer in charge of

such booking or his superior officer, or any other person designated by a city or county for this purpose shall make an immediate investigation into the background of the person to determine whether he should be released pursuant to the provisions of this chapter. Such investigation shall include, but need not be limited to, the person's name, address, length of residence at that address, length of residence within this state, marital and family status, employment, length of that employment, prior arrest record, and such other facts relating to the person's arrest which would bear on the question of his release pursuant to the provisions of this chapter.

(j) Whenever any person is arrested by a peace officer for a misdemeanor, other than an offense described in subdivision (b) of Section 11357 or subdivision (c) of Section 11360 of the Health and Safety Code, and is not released with a written notice to appear in court pursuant to this chapter, the arresting officer shall indicate, on a form to be established by his employing law enforcement agency, which of the following was a reason for such nonrelease:

(1) The person arrested was so intoxicated that he could have been a danger to himself or to others.

(2) The person arrested required medical examination or medical care or was otherwise unable to care for his own safety.

(3) The person was arrested for one or more of the offenses listed in Section 40302 of the Vehicle Code.

(4) There were one or more outstanding arrest warrants for the person.

(5) The person could not provide satisfactory evidence of personal identification.

(6) The prosecution of the offense or offenses for which the person was arrested or the prosecution of any other offense or offenses would be jeopardized by immediate release of the person arrested.

(7) There was a reasonable likelihood that the offense or offenses would continue or resume, or that the safety of persons or property would be imminently endangered by release of the person arrested.

(8) The person arrested demanded to be taken before a magistrate or refused to sign the notice to appear.

(9) Any other reason, which shall be specifically stated on the form by the arresting officer.

Such form shall be filed with the arresting agency as soon as practicable and shall be made available to any party having custody of the arrested person, subsequent to the arresting officer, and to any person authorized by law to release him for custody before trial.

SEC. 3. Section 853.6a of the Penal Code is amended to read:

853.6a. If the person arrested appears to be under the age of 18 years, and the arrest is for a violation of the Fish and Game Code not declared to be a felony, the notice under Section 853.6 shall instead provide that such person shall appear before the juvenile court, a juvenile court referee, or a juvenile traffic hearing officer within the county in which the offense charged is alleged to have been

committed, and the officer shall instead, as soon as practicable, file the duplicate notice with the prosecuting attorney. Within 48 hours before the date specified on the notice to appear, the prosecutor, within his or her discretion, may initiate prosecution by filing the notice of a formal petition with the clerk of the juvenile court, or the juvenile court referee or juvenile traffic officer, before whom the person is required to appear by the notice.

SEC. 4. Section 853.9 of the Penal Code is amended to read:

853.9. (a) Whenever written notice to appear has been prepared, delivered, and filed by the prosecuting attorney with the court pursuant to the provisions of Section 853.6 of this code, an exact and legible duplicate copy of the notice when filed with the magistrate, in lieu of a verified complaint, shall constitute a complaint to which the defendant may plead "guilty" or "nolo contendere."

If, however, the defendant violates his promise to appear in court, or does not deposit lawful bail, or pleads other than "guilty" or "nolo contendere" to the offense charged, a complaint shall be filed which shall conform to the provisions of this code and which shall be deemed to be an original complaint; and thereafter proceedings shall be had as provided by law, except that a defendant may, by an agreement in writing, subscribed by him and filed with the court, waive the filing of a verified complaint and elect that the prosecution may proceed upon a written notice to appear.

(b) Notwithstanding the provisions of subdivision (a) of this section, whenever the written notice to appear has been prepared on a form approved by the Judicial Council, an exact and legible duplicate copy of the notice when filed with the magistrate shall constitute a complaint to which the defendant may enter a plea and, if the notice to appear is verified, upon which a warrant may be issued. If the notice to appear is not verified, the defendant may, at the time of arraignment, request that a verified complaint be filed.

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.

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## CHAPTER 1095

An act to amend Sections 395 and 800 of, and to add Section 700.1 to, the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor September 25, 1980. Filed with  
Secretary of State September 26, 1980 ]

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

SECTION 1. Section 395 of the Welfare and Institutions Code is amended to read:

395. A judgment in a proceeding under Section 300 may be appealed from in the same manner as any final judgment, and any subsequent order may be appealed from as from an order after judgment; but no such order or judgment shall be stayed by the appeal, unless, pending the appeal, suitable provision is made for the maintenance, care, and custody of the person alleged or found to come within the provisions of Section 300, and unless the provision is approved by an order of the juvenile court. The appeal shall have precedence over all other cases in the court to which the appeal is taken.

A judgment or subsequent order entered by a referee shall become appealable whenever proceedings pursuant to Section 252, 253, or 254 have become completed or, if proceedings pursuant to Section 252, 253, or 254 are not initiated, when the time for initiating the proceedings has expired.

An appellant unable to afford counsel shall be provided a free copy of the transcript.

SEC. 2. Section 700.1 is added to the Welfare and Institutions Code, to read:

700.1. Any motion to suppress as evidence any tangible or intangible thing obtained as a result of an unlawful search or seizure shall be heard prior to the attachment of jeopardy and shall be heard at least five judicial days after receipt of notice by the people unless the people are willing to waive a portion of this time.

If the court grants a motion to suppress prior to the attachment of jeopardy over the objection of the people, the court shall enter a judgment of dismissal as to all counts of the petition except those counts on which the prosecuting attorney elects to proceed pursuant to Section 701.

If, prior to the attachment of jeopardy, opportunity for this motion did not exist or the person alleged to come within the provisions of the juvenile court law was not aware of the grounds for the motion, that person shall have the right to make this motion during the course of the proceeding under Section 701.

SEC. 3. Section 800 of the Welfare and Institutions Code is amended to read:

800. A judgment in a proceeding under Section 601 or 602, or the denial of a motion made pursuant to Section 262, may be appealed from in the same manner as any final judgment, and any subsequent order may be appealed from as from an order after judgment; but no such order or judgment shall be stayed by the appeal, unless, pending the appeal, suitable provision is made for the maintenance, care, and custody of the person alleged or found to come within the provisions of Section 601 or 602 and unless the provision is approved by an order of the juvenile court. The appeal shall have precedence

over all other cases in the court to which the appeal is taken.

A ruling on a motion to suppress pursuant to Section 700.1 shall be reviewed on appeal even if the judgment is predicated upon an admission of the allegations of the petition or even if the judgment is a dismissal of the petition or any count or counts thereof; however, no appeal by the people shall lie as to any count which, if the people are successful, will be the basis for further proceedings subjecting any person to double jeopardy in violation of the state or federal Constitution.

A judgment or subsequent order entered by a referee shall become appealable whenever proceedings pursuant to Section 252, 253, or 254 have become completed or, if proceedings pursuant to Section 252, 253, or 254 are not initiated, when the time for initiating the proceedings has expired.

An appellant unable to afford counsel shall be provided a free copy of the transcript.

All appeals shall be initiated by the filing of a notice of appeal in conformity with the requirements of Section 1240.1 of the Penal Code.

SEC. 4. Section 800, as added to the Welfare and Institutions Code by Assembly Bill No. 3264 of the 1980 Regular Session, is amended to read:

800. A judgment in a proceeding under Section 601 or 602, or the denial of a motion made pursuant to Section 262, may be appealed from in the same manner as any final judgment, and any subsequent order may be appealed from as from an order after judgment. Pending appeal of the order or judgment, the granting or refusal to order release shall rest in the discretion of the juvenile court. The appeal shall have precedence over all other cases in the court to which the appeal is taken.

A ruling on a motion to suppress pursuant to Section 700.1 shall be reviewed on appeal even if the judgment is predicated upon an admission of the allegations of the petition or even if the judgment is a dismissal of the petition or any count or courts thereof; however, no appeal by the people shall lie as to any count which, if the people are successful, will be the basis for further proceedings subjecting any person to double jeopardy in violation of the state or federal Constitution.

A judgment or subsequent order entered by a referee shall become appealable whenever proceedings pursuant to Section 252, 253, or 254 have become completed or, if proceedings pursuant to Section 252, 253, or 254 are not initiated, when the time for initiating the proceedings has expired.

An appellant unable to afford counsel shall be provided a free copy of the transcript.

All appeals shall be initiated by the filing of notice of appeal in conformity with the requirements of Section 1240.1 of the Penal Code.

SEC. 5. It is the intention of the Legislature that if this bill and

Assembly Bill 3264 are both chaptered and become effective January 1, 1981, this bill amends Section 800 of the Welfare and Institutions Code, Assembly Bill 3264 repeals and adds Section 800 of the Welfare and Institutions Code, and this bill is chaptered after Assembly Bill 3264, that the provisions in both bills affecting Section 800 of the Welfare and Institutions Code be given effect and incorporated in Section 800 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 3264 are both chaptered and become effective January 1, 1981, this bill amends Section 800 and Assembly Bill 3264 repeals and adds Section 800, and this bill is chaptered after Assembly Bill 3264, in which case Section 3 of this act shall not become operative and Section 800 as added to the Welfare and Institutions Code by Assembly Bill 3264 shall be further amended in the form set forth in Section 4 of this act.

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#### CHAPTER 1096

An act to amend Sections 211, 212, 1061, 1063, 1065, 1066, 1074, 3513, 3515, 3517, 3541, 3542, and 3575 and the heading of Article 4 (commencing with Section 1061) of Chapter 5 of Part 1 of Division 1 of, to add Sections 3522 and 3523 to, and to add Article 3.7 (commencing with Section 3591) to Chapter 1 of Division 2 of, and to repeal Sections 214, 1067, 1068, 3514, 3517.1, 3518, and 3575.1 and Article 4 (commencing with Section 3601) of Chapter 1 of Division 2 of, the Public Utilities Code, relating to carriers, and making an appropriation therefor.

[Approved by Governor September 25, 1980 Filed with  
Secretary of State September 26, 1980 ]

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

SECTION 1. Section 211 of the Public Utilities Code is amended to read:

211. "Common carrier" includes:

(a) Every railroad corporation; street railroad corporation; express corporation; freight forwarder; dispatch, sleeping car, dining car, drawing-room car, freight, freightline, refrigerator, oil, stock, fruit, car-loaning, car-renting, car-loading, and every other car corporation or person operating for compensation within this state.

(b) Every corporation or person, owning, controlling, operating, or managing any vessel engaged in the transportation of persons or property for compensation between points upon the inland waters of this state or upon the high seas between points within this state, except as provided in Section 212. "Inland waters" as used in this section includes all navigable waters within this state other than the high seas.

(c) Every "passenger stage corporation" operating within this state.

(d) Every highway common carrier and cement carrier operating within this state.

SEC. 2. Section 212 of the Public Utilities Code is amended to read:

212. "Common carrier" shall not include:

(a) Any corporation or person owning, controlling, operating, or managing any vessel, by reason of the furnishing of water transportation service between points upon the inland waters of this state or upon the high seas between points within this state for affiliated or parent or subsidiary companies or for the products of other corporations or persons engaged in the same industry, if such water transportation service is furnished in tank vessels or barges specially constructed to hold liquids or fluids in bulk and if such service is not furnished to others not engaged in the same industry.

(b) Any corporation or person who operates any vessel for the transportation of persons for compensation, between points in this state if one terminus of every trip operated by the corporation or person is within the boundaries of a U.S. military reservation and is performed under a contract with an agency of the federal government which specifies the terms of service to be provided; and provided that the corporation or person does not perform any service between termini within this state which are outside of a U.S. military reservation. For the purposes of this subdivision, the conditions of this exemption shall be reviewed by the Public Utilities Commission annually as of the first day of January of each year.

(c) Any corporation or person owning, controlling, operating, or managing any recreational conveyance such as a ski lift, ski tow, J-bar, T-bar, chair lift, aerial tramway, or other such device or equipment used primarily while participating in winter sports activities.

(d) Any highway permit carrier as defined in Section 3515.

SEC. 3. Section 214 of the Public Utilities Code is repealed.

SEC. 4. The heading of Article 4 (commencing with Section 1061) of Chapter 5 of Part 1 of Division 1 of the Public Utilities Code is amended to read:

#### Article 4. Highway Common Carriers and Cement Carriers

SEC. 5. Section 1061 of the Public Utilities Code is amended to read:

1061. No common carrier shall operate or cause to be operated any auto truck, or other self-propelled vehicle not operated on rails, for the transportation of property as a common carrier for compensation on any public highway in this state except in accordance with the provisions of this part.

SEC. 6. Section 1063 of the Public Utilities Code is amended to read:

1063. No common carrier shall begin to operate any auto, truck, or other self-propelled vehicle, for the transportation of property for compensation on any public highway in this state without first having obtained from the commission a certificate declaring that public convenience and necessity require such operation. No such certificate shall be required of any highway common carrier as to the fixed termini between which or the route over which it was actually operating as a highway common carrier on July 26, 1917, and in good faith continuously thereafter, or for the performance of pickup, delivery, or transfer services by such carrier within such carrier's lawfully published pickup and delivery zones insofar as such pickup and delivery limits do not include territory in excess of three miles from the corporate limits of any city or three miles from the post office of any unincorporated point. Any right, privilege, franchise, or permit held, owned, or obtained by any common carrier may be sold, leased, transferred, or inherited as other property, only upon authorization by the commission.

No certificate shall be issued unless it has been shown that the applicant meets one of the following residence requirements: If an individual, the applicant must have resided in the State of California for not less than 90 days next preceding the filing of the application. If a partnership, the partner having the largest percentage interest in the partnership must have resided in the State of California continuously for not less than 90 days next preceding the filing of the application. If a corporation, the applicant must be a domestic corporation or must have qualified to transact business in the State of California as a foreign corporation at the time of filing the application.

SEC. 7. Section 1065 of the Public Utilities Code is amended to read:

1065. Without the express approval of the commission, no certificate of public convenience and necessity issued to one common carrier under the provisions of this article, or heretofore issued by the commission to one common carrier for the transportation of property by auto truck or self-propelled vehicle, nor any operative right of one common carrier founded upon operations actually conducted in good faith on July 26, 1917, shall be combined, united, or consolidated with another such certificate or operative right issued to or possessed by another such carrier, so as to permit through service between any point or points served by one common carrier on the one hand, and any point or points served by another such carrier, on the other hand.

SEC. 8. Section 1066 of the Public Utilities Code is amended to read:

1066. Unless prohibited by the terms and conditions of any certificate that may be involved, any one highway common carrier may establish through routes and joint rates, charges, and classifications between any and all points served by it under any and all certificates or operative rights issued to or possessed by it.

SEC. 9. Section 1067 of the Public Utilities Code is repealed.

SEC. 10. Section 1068 of the Public Utilities Code is repealed.

SEC. 11. Section 1074 of the Public Utilities Code is amended to read:

1074. Every common carrier subject to Section 1061 who engages subhaulers or leases equipment from employees shall file with the commission a bond, the amount of which shall be determined by the commission but which shall be not less than two thousand dollars (\$2,000), executed by a qualified surety insurer, subject to the approval of the commission, which bond shall secure the payment of the claims of subhaulers and employee-lessors of the common carrier. The aggregate liability of the surety for all such claims shall, in no event, exceed the sum of such bond.

SEC. 12. Section 3513 of the Public Utilities Code is amended to read:

3513. "Highway common carrier" means every highway carrier operating as a common carrier, subject to regulation as such by the commission under Part 1 (commencing with Section 201) of Division 1.

SEC. 13. Section 3514 of the Public Utilities Code is repealed.

SEC. 14. Section 3515 of the Public Utilities Code is amended to read:

3515. "Highway permit carrier" means every highway carrier other than a common carrier.

SEC. 15. Section 3517 of the Public Utilities Code is amended to read:

3517. "Highway contract carrier" means every highway permit carrier other than (a) a tank truck carrier, (b) a vacuum truck carrier, (c) a cement contract carrier, (d) a dump truck carrier, (e) a livestock carrier, (f) an agricultural carrier, or (g) a heavy-specialized carrier.

SEC. 16. Section 3517.1 of the Public Utilities Code is repealed.

SEC. 17. Section 3518 of the Public Utilities Code is repealed.

SEC. 18. Section 3522 is added to the Public Utilities Code, to read:

3522. "Tank truck carrier" means any person or corporation other than a vacuum truck carrier engaged in the transportation for compensation over any public highway in this state of any liquids, compressed gases, commodities in semi-plastic form, and commodities in suspension in liquids in bulk in any tank truck or tank trailer.

SEC. 19. Section 3523 is added to the Public Utilities Code, to read:

3523. "Vacuum truck carrier" means any person or corporation engaged in the transportation for compensation over any public highway in this state of liquid or semisolid waste or any other bulk liquid commodity in any vacuum-type tank truck or trailer.

SEC. 20. Section 3541 of the Public Utilities Code is amended to read:

3541. No highway permit carrier shall engage in the business of the transportation of property for compensation by motor vehicle over any public highway in this state, except in accordance with the provisions of this chapter which is enacted under the power of the state to regulate the use of public highways.

SEC. 21. Section 3542 of the Public Utilities Code is amended to read:

3542. No person or corporation shall engage or be permitted by the commission to engage in the transportation of property on any public highway, both as a common carrier and as a highway permit carrier of the same commodities between the same points, except as provided in Section 1066.2.

SEC. 22. Section 3575 of the Public Utilities Code is amended to read:

3575. Every highway carrier who engages subhaulers or leases equipment from employees shall file with the commission a bond, the amount of which shall be determined by the commission but which shall be not less than two thousand dollars (\$2,000), executed by a qualified surety insurer, subject to the approval of the commission, which bond shall secure the payment of the claims of subhaulers and employee-lessors of the highway carrier; provided, however, that the aggregate liability of the surety for all such claims shall, in no event, exceed the sum of such bond.

SEC. 23. Section 3575.1 of the Public Utilities Code is repealed.

SEC. 24. Article 3.7 (commencing with Section 3591) is added to Chapter 1 of Division 2 of the Public Utilities Code, to read:

### Article 3.7. Tank Truck and Vacuum Truck Carriers

3591. The transportation of property for compensation over any public highway in this state by any tank truck carrier or vacuum truck carrier is declared to be a highly specialized type of truck transportation service. This article is enacted for the limited purpose of providing necessary regulations for this specialized type of transportation service only, and it is not to be construed for any purpose as a precedent for the extension of such regulations to any other type of transportation.

3591.5. No vacuum truck carrier shall engage in the business of transportation for compensation over any public highway in this state of liquid or semisolid waste or other bulk liquid commodity in any vacuum-type tank truck or trailer unless there is in force a permit issued by the commission authorizing such operation.

3592. No tank truck carrier shall engage in the business of transportation for compensation over any public highway in this state of any liquids, compressed gases, commodities in semiplastic form, or commodities in suspension in liquids in bulk in any tank-type motor vehicle or combination of vehicles unless there is in force a permit issued by the commission authorizing such operation.

3592.5. (a) An application for a permit to operate as a tank truck

carrier or a vacuum truck carrier shall be in writing, verified under oath, and shall be in such form, contain such information, and be accompanied by proof of service upon such interested parties as the commission requires.

(b) Any tank truck carrier or vacuum truck carrier engaged in such business on January 1, 1981, may file with the commission prior to July 1, 1981, an application for a permit to operate as a tank truck or vacuum truck carrier; provided, that in lieu of all other fees required by law, the applicant shall pay a fee of fifty dollars (\$50). If the applicant was operating in good faith as a tank truck or vacuum truck carrier during 1980, and continuously to the date of filing, the commission shall grant a permit to such applicant to operate as a tank truck or vacuum truck carrier statewide, provided such tank truck or vacuum truck carrier applies to the commission for such permit prior to July 1, 1981, and submits adequate proof of such prior operations.

(c) If, in the judgment of the commission, the applicant has satisfied all requirements of this section, it may issue the requested permit without further proceedings; otherwise it may require the applicant to demonstrate compliance at a public hearing.

(d) Between January 1, 1981, and the final determination of such application the continuance of the applicant's operation is lawful. Upon issuance of a permit pursuant to this section, all prior operating authority authorizing transportation included in the provisions of the permit is revoked.

3593. (a) Except as provided in Section 3592.5, any highway carrier desiring a permit to operate as a tank truck or vacuum truck carrier shall file a petition therefor with the commission. The petition shall set forth all of the following:

- (1) The name and address of the applicant.
- (2) The names and addresses of the applicant's officers, if any.
- (3) Full information concerning the financial condition and physical properties of the applicant.
- (4) Such other information necessary to the enforcement of this chapter as the commission may require.

(b) Before a permit is issued, the commission shall require that the applicant establish financial responsibility. The commission may, with or without hearing, issue or refuse to issue the permit. If the commission finds that the applicant possesses the required financial responsibility to perform the operations proposed, it shall issue a permit. The commission may attach to the permit such terms and conditions as, in its judgment, are required to assure protection to persons utilizing the applicant's operations.

(c) No permit shall be issued unless it has been shown that the applicant meets one of the following residence requirements:

- (1) If an individual, the applicant shall have resided in the State of California continuously for not less than 90 days next preceding the filing of the petition.
- (2) If a partnership, the partner having the largest percentage

interest in the partnership shall have resided in the State of California continuously for not less than 90 days next preceding the filing of the petition.

(3) If a corporation, the applicant shall either be a domestic corporation or shall have qualified to transact business in the State of California as a foreign corporation at the time of filing of the petition.

(d) Except as otherwise provided in this chapter, upon compliance by an applicant with the provisions of this section, the commission shall issue a permit.

3593.5. No permit to operate as a tank truck or vacuum truck carrier shall be sold, leased, assigned, transferred, or otherwise encumbered by the holder thereof until such holder files with the commission a written application requesting authority to sell, lease, assign, transfer, or otherwise encumber such operating authority and secures therefrom an order so authorizing. The commission shall authorize the sale, lease, assignment, or transfer of tank truck or vacuum truck carrier operating authority to the extent of the scope and the area of the operation of the holder thereof as determined by the commission, only upon a finding that the transferee meets all criteria for an original applicant, pursuant to this article.

3594. No permit to operate as a tank truck or vacuum truck carrier issued pursuant to Section 3592.5 may be sold, mortgaged, leased, assigned, transferred, or otherwise encumbered for a period of five years after issuance, except to the extent of operations actually conducted in good faith, not including operations as a subhauler.

3594.5. Any operating permit not exercised for a period of one year, inclusive of all periods of suspension, shall lapse and terminate and shall be revoked by the commission. Nonexercise of a permit shall be presumed from nonpayment of the fees required by Chapter 6 (commencing with Section 5001) of Division 2 for four consecutive quarters.

SEC. 25. Article 4 (commencing with Section 3601) of Chapter 1 of Division 2 of the Public Utilities Code is repealed.

SEC. 26. 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 1097

An act to amend Sections 14103, 14203, 14406, 14700, 14701, 14702, 14858, 14902 and 14903 of, and to add Chapter 11 (commencing with Section 16100) to Division 5 of the Financial Code, relating to credit unions.

[Approved by Governor September 25, 1980. Filed with Secretary of State September 26, 1980.]

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

SECTION 1. Section 14103 of the Financial Code is amended to read:

14103. The bylaws shall prescribe the manner in which the business of the credit union shall be conducted with reference to the following matters:

- (a) The purpose of the credit union.
- (b) The qualification for membership.
- (c) Determination of the month, time and place of the annual meeting; the manner of conducting meetings; the method by which members shall be notified of meetings; and the number of members which shall constitute a quorum.
- (d) The authorized number of directors, the number of directors necessary to constitute a quorum, and the powers and duties of officers elected by the directors.
- (e) The membership, powers, and duties of the supervisory committee.
- (f) The membership, powers, and duties of the credit committee.
- (g) The conditions upon which shares may be issued, paid for, transferred and withdrawn.
- (h) The charges, if any, which may be imposed for failure to punctually meet obligations to the credit union.
- (i) The conditions upon which certificates may be issued and withdrawn.
- (j) The manner in which the funds of the credit union shall be employed.
- (k) The conditions upon which loans may be made and repaid.
- (l) The maximum rate of interest that may be charged upon loans.
- (m) The method of receipting for money paid on account of shares, certificates or loans.
- (n) The manner in which the regular reserve shall be accumulated.
- (o) The manner in which dividends may be determined and paid to members.
- (p) The manner in which the bylaws may be amended.

SEC. 2. Section 14203 of the Financial Code is amended to read:

14203. Upon request of the commissioner, a credit union shall

furnish to the commissioner an authorization for examination of financial records of any capital funds, undivided profits, and reserve funds, maintained in a financial institution, in accordance with the procedures set forth in Section 7473 of the Government Code.

SEC. 3. Section 14406 of the Financial Code is amended to read:

14406. The capital funds, undivided profits and reserve funds of any credit union may be deposited in any of the following:

(a) Commercial banks or trust companies, incorporated under the laws of this state.

(b) National banks located in this state.

(c) Shares or certificates for funds received or any form of evidence of interest or indebtedness issued by any credit union organized under the provisions of this division or any credit union whose member accounts are insured as provided for by Title II of the Federal Credit Union Act, or alternatively, comparable insurance acceptable to the commissioner.

(d) Accounts with, investment certificates or withdrawable shares of, any savings and loan association doing business in this state and which is an insured institution as defined by Title IV of the National Housing Act.

SEC. 4. Section 14700 of the Financial Code is amended to read:

14700. Every credit union shall create and maintain a regular reserve as follows:

(a) All entrance fees remaining after the payment of organization expenses shall be set aside to such reserve.

(b) At the close of each accounting period, 10 percent of the gross income of the credit union shall be transferred to such reserve until it equals or exceeds 20 percent of the credit union's gross assets. When the regular reserve falls below 20 percent of the credit union's gross assets, it shall be replenished by contributions of 10 percent of the gross income of the credit union or in such lesser amounts as may be needed to maintain a level of 20 percent of gross assets, except that any credit union participating in a program of share insurance or guaranty approved by the commissioner may, in lieu of compliance with this section, maintain such regular reserve as may be specified by the commissioner.

(c) Any sums recovered on items previously charged to it shall be credited to such reserve.

SEC. 5. Section 14701 of the Financial Code is amended to read:

14701. Losses incurred by a credit union may be charged to its regular reserve.

SEC. 6. Section 14702 of the Financial Code is amended to read:

14702. In addition to the regular reserve, special reserves shall be established when required by regulation or when found necessary by the board of directors of the credit union or by the commissioner.

SEC. 7. Section 14858 of the Financial Code is amended to read:

14858. Every credit union shall apply for and obtain insurance as provided for by Title II of the Federal Credit Union Act (Title 12 U.S.C., Sec. 1781 and following), or alternatively, a guaranty of shares provided by the California Credit Union Share Guaranty Corporation pursuant to Chapter 11 (commencing with Section

16100) or a form of comparable insurance or guaranty of shares acceptable to the commissioner, for the purpose of insuring or guaranteeing its members' share accounts, by March 31, 1981. In seeking and retaining such insurance or guaranty, a credit union may do all things and assume and discharge all obligations required of it when not in conflict with the laws of this state. Credit unions which have not obtained such share insurance or guaranty by March 31, 1981, or have ceased to maintain such share insurance or guaranty after that date, shall commence with orderly liquidation or merger proceedings, subject to the provisions of this division.

SEC. 8. Section 14902 of the Financial Code is amended to read:

14902. The directors of any credit union may, for the dividend period, declare dividends from its undivided profits as provided by law, but no credit union shall credit or pay any dividends to its members until it has transferred to its regular reserve such part of its gross income as is required by Section 14700.

SEC. 9. Section 14903 of the Financial Code is amended to read:

14903. To determine the undivided profits, the credit union may credit the profit and loss account with the earnings from all sources during the dividend period. The credit union shall then deduct the following amounts for the dividend period:

(a) All expenses paid or incurred of whatever nature in the management of its affairs, the collection of its debts or the transaction of its business.

(b) The interest paid, or accrued and unpaid, on debts owing by it.

(c) All losses sustained by it in excess of its regular reserve.

SEC. 10. Chapter 11 (commencing with Section 16100) is added to Division 5 of the Financial Code, to read:

## CHAPTER 11. GUARANTEE OF CREDIT UNION SHARE ACCOUNTS

### Article 1. Definitions

16100. "Corporation" means the California Credit Union Share Guaranty Corporation.

16101. "Fund" means the Share Guaranty Fund established by the corporation pursuant to Section 16131.

16102. "Credit union share accounts" means funds invested in any regular or special shares of a participating credit union.

16103. "Deficiency" means that amount of an individual shareholder's share account of the maximum guaranteed amount or less which a participating credit union cannot honor due to insolvency or any other reason and which the corporation is directed to pay by the commissioner.

16104. "Participating credit union" means a credit union which has applied for and been admitted to participation in the corporation.

16105. "Fee" means the amount of deposits each participating credit union is required to maintain in the corporation pursuant to subdivision (a) of Section 16131.

16106. "Account" means the total of all amounts credited to a participating credit union for paid-in fees, assessments, and other credits, net of any charges to that participating credit union.

## Article 2. Purpose and Scope of Share Guaranty Corporation

16110. The corporation shall be organized under the provisions of the Nonprofit Mutual Benefit Corporations Law and shall have, in addition to the powers enumerated in this chapter, the general powers conferred upon corporations by the Nonprofit Mutual Benefit Corporations Law unless restricted by this chapter.

16111. It shall be the purpose of the corporation to guarantee payment of all shares issued by participating credit unions subject to any express limitations as provided in this chapter.

16112. Each credit union supervised or regulated under this division may participate in the corporation in accordance with this chapter and rules established by the board of directors of the corporation.

16113. Each credit union share account issued by a participating credit union pursuant to this chapter shall be guaranteed in amounts established in the bylaws of the corporation. Such amounts shall not be less than amounts insured under Title II of the Federal Credit Union Act (Title 12 U.S.C., Sec. 1781 et seq.).

16114. The guarantees provided herein shall not apply to the share accounts of any credit union until such credit union has applied for and been admitted as a participating credit union and shall cease to apply to the share accounts of any credit union whose right to participate in the corporation has been suspended or revoked, pursuant to Section 16120, 30 days after notification of such suspension or revocation. Share accounts which were established prior to such suspension or revocation shall be guaranteed as provided in Section 16113 for one year following suspension or revocation.

## Article 3. Operation and Management

16120. (a) The corporation shall have authority to suspend or revoke the right to participate in the corporation by any participating credit union for cause and to submit reports and make recommendations to the commissioner regarding the financial condition of any participating credit union. Such reports and recommendations shall not be public documents. There shall be no liability on the part of, and no cause of action of any nature shall arise against, the corporation or its participating credit unions, directors, officers, employees or agents, or the commissioner or his or her authorized representatives, for any statements made by them in any reports or recommendations made thereunder.

(b) In order to permit the corporation to fulfill its obligations under subdivision (a), upon the written request of the corporation, the commissioner may furnish to the corporation a copy of unaudited

financial statements filed with the commissioner pursuant to Section 14252 or 14253, by a participating credit union in the corporation or of any examination reports of the commissioner which were prepared pursuant to Section 14250 or 14251, and a copy of the commissioner's analysis of such examinations or reports or any portion thereof. There shall be no liability on the part of, and no cause of action of any nature shall arise against the State of California, the commissioner or members of his or her staff or his or her authorized agents or representatives, for the release of any information furnished to the corporation pursuant to this subdivision. Such financial statements and analyses furnished to the corporation pursuant to this subdivision are not public documents, and the information contained therein is privileged and confidential to the corporation for its sole use in carrying out its statutory functions.

(c) The corporation, in order to fulfill its obligations under subdivision (a) may appoint an independent certified public accountant or public accountant to prepare an audit report containing audited financial statements, together with such other information as the corporation, in good faith, requires regarding the financial conditions of any participating credit union or, upon notification to its participating credit union and after notice to the commissioner, the corporation may appoint an investigative committee or hire a specialized employee to investigate the operations of its participating credit union. Costs and expenses for such audit report or special investigation report shall be paid by the corporation.

(d) The corporation, any participating credit union, as an agent of the corporation or of its participating credit unions, or any person who uses information obtained under subdivision (b) or (c) for any purpose not authorized by subdivision (a) is guilty of a misdemeanor.

16121. The corporation may invest or deposit its funds:

(a) In the same manner as credit unions, under Section 14406, 14653, or 14656, with a view to preserving reasonable liquidity.

(b) In United States government securities or United States government agency obligations with a maturity date not exceeding two years from the date of purchase.

(c) In bankers' acceptances that are eligible for rediscount with a federal reserve bank, and are accepted or endorsed without qualification by a bank or trust company with deposits of at least five hundred million dollars (\$500,000,000).

(d) In any other investments approved by the commissioner.

Upon request of the commissioner, the corporation shall furnish an authorization for disclosure to the commissioner of financial records of such funds pursuant to Section 7473 of the Government Code.

16122. Income from investments shall be recorded in an income account and be used to defray expenses of administration. Income from investments that exceeds an amount determined by the board of directors to be adequate to provide for current expenses may be credited to participating credit unions' accounts. Each participating

credit union's account shall receive credit ratably based on the account balance, for the amount of the excess.

16123. Expenses of administration that exceed income from investments at year end shall be charged to participating credit unions' accounts. Each participating credit union's account shall be charged ratably based on the account balance for the amount of the excess.

16124. The corporation shall have authority to borrow funds when necessary to effectuate the provisions of this chapter.

16125. The operation of the corporation shall at all times be subject to the regulation of the commissioner and his or her duly designated representatives may at any time investigate the affairs and examine the books, accounts, records, and files of the corporation. The commissioner and his or her duly designated representatives shall have free access to the offices, books, accounts, papers, records, files, safes, and vaults of the corporation.

16126. Any participating credit union aggrieved by any action or decision of the corporation may appeal to the commissioner within 30 days from the action or decision.

16127. The corporation shall not advertise, print, display, publish, distribute, broadcast, or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast, in any manner any statement or representation with regard to its participating credit unions or plan of operation except as permitted by the commissioner, in special rules or a separate writing.

16128. No credit union shall advertise, print, display, publish, distribute or broadcast, or cause or permit to be advertised, printed, displayed, published, distributed, or broadcast, in any manner any statement or representation with regard to its participation in the corporation except as permitted by the commissioner, in special rules or a separate writing.

16129. In order to permit the corporation to fulfill its obligations under this chapter, the commissioner shall furnish to the corporation a list of all credit unions under his or her supervision and doing business as of the next preceding December 31, not later than April 1, of each year.

#### Article 4. Membership Fees and Assessments

16131. The corporation shall establish and maintain a guarantee fund as follows:

(a) The corporation shall assess, and each credit union shall pay, a fee equal to  $\frac{1}{2}$  of 1 percent of its share capital to become a participating credit union. The corporation shall annually assess, and each participating credit union shall pay, additions to the fee so that the fee of any participating credit union is never less than  $\frac{1}{2}$  of 1 percent of its share capital as shown on its most recent report required by Section 14254. Fees paid under this subdivision, when paid by the individual participating credit union, may be a charge to

its regular reserve or may be established as a prepaid asset to be charged to its regular reserve over a period of five years.

(b) If the total unencumbered amount in the fund (less any unpaid demand made by the commissioner pursuant to Section 16142) on March 15, of any year hereafter is less than 2 percent of the total outstanding shares of all participating credit unions as shown on the most recent report required by Section 14254 then or before May 1, of that year, the corporation shall levy an assessment. Each participating credit union shall be assessed an amount equal to  $\frac{1}{2}$  of 1 percent of its outstanding shares as shown on its most recent report required by Section 14254.

(c) Whenever the total unencumbered amount in the fund, less any then unpaid demand made by the commissioner pursuant to Section 16142, on March 15, of any year hereafter is in excess of 2 percent of the total outstanding shares of all participating credit unions shown on its most recent report required by Section 14254, the corporation shall then credit to its participating credit unions an amount equal to such excesses. Each participating credit union that has a balance in its account equal to 2 percent of its total outstanding shares shall receive a credit in proportion to its account balance in the corporation. Payments currently due and payable pursuant to Section 16142 shall be paid before any credit shall be made pursuant to this subdivision. Such credits may be applied to subsequent assessments, at the election of a participating credit union.

(d) Notwithstanding the provisions of subdivisions (b) and (c), each participating credit union that has not paid assessments in an amount equal to 2 percent of its total outstanding shares as shown on the most recent report required by Section 14254 shall continue to be assessed an amount equal to  $\frac{1}{12}$  of 1 percent of its outstanding shares as shown on its most recent report required by Section 14254.

(e) Notwithstanding the provisions of subdivision (c), the corporation shall withhold any credit to participating credit unions during any period when a participating credit union is in the process of liquidation by the commissioner or the corporation, and it shall further assess participating credit unions during any calendar year in which the fund has been reduced by payment of claims for guaranteed shares provided the aggregate assessments during the year do not exceed the amount provided in subdivision (b).

All assessments pursuant to subdivisions (b), (d) and (e), when paid by a participating credit union, may be charged to its regular reserve.

16132. The corporation shall send a written notice of assessment to each participating credit union assessed within 10 days after the levy of any assessment. Amounts assessed shall be paid to the corporation by each participating credit union assessed not later than 90 days following written notice of assessment.

16133. A report of each levy of assessment shall be made to the commissioner within 10 days after the levy.

16134. In the event any participating credit union fails to pay an

assessment when due, the corporation shall report such default in writing to the commissioner within 24 hours of such default, and shall suspend or revoke the participating credit union's right to participate as provided in subdivision (a) of Section 16120.

16135. Right to participate issued by the corporation shall be nontransferable and shall be exempt from the provisions of the Corporate Securities Law.

16136. Any participating credit union which is voluntarily liquidated under this division, or any participating credit union which withdraws from participation in the corporation and obtains a different form of share guaranty or insurance pursuant to Section 14858, or any participating credit union which merges with another credit union whose shares are guaranteed or insured by a different form of guaranty or insurance pursuant to Section 14858, and such other credit union becomes the surviving credit union, shall receive a refund of its fee in the manner prescribed in the bylaws of the corporation, but shall not receive a refund of any regular or special assessments paid into the fund.

16137. In the event of a merger of two or more participating credit unions, the funds in the account of each such credit union shall be transferred to the account of the surviving credit union.

16138. If the corporation is dissolved, subject to the approval of the commissioner, the net assets after settling all liabilities shall be distributed to the participating credit unions based on their account balances.

#### Article 5. Payments

16141. The commissioner shall give prompt notice to the corporation whenever he or she takes possession of the property and assets of a participating credit union. The commissioner shall give further prompt notice whenever he or she determines to liquidate the property and assets of such participating credit union or that the corporation will be appointed as liquidating agent.

16142. When the property and business of a participating credit union has been liquidated or is in the process of liquidation and the proceeds of liquidation distributed ratably are insufficient to pay the full guaranteed amount of each share account as specified in Section 16113, the commissioner shall direct the corporation to pay and the corporation shall pay each such deficiency at the direction of and in amounts directed by the commissioner within 120 days from the date the commissioner makes demand for payments. If the total funds available from the corporation at such time are insufficient to pay in full the amounts provided by Section 16113, the amounts paid to each credit union member shall be ratably reduced in proportion to the amount by which the fund is deficient, and thereafter further payments shall be made ratably to such members in accordance with the directions of the commissioner as additional funds are paid into the fund from assessments or otherwise. When such guaranteed

amounts are paid, each participating credit union's account shall be reduced ratably based on the account balance for the total amount paid.

16143. (a) When the property and business of a participating credit union is being liquidated the commissioner may direct the corporation to pay and it shall pay any deficiencies up to the maximum guaranteed amount of each share account specified in Section 16113.

(b) When any member's share account is paid in full pursuant to subdivision (a), the corporation shall be subrogated to all rights of the member, up to the amount paid by the corporation to such member. In the event that a share account is in excess of a maximum amount specified in Section 16113, and the corporation has paid the deficiency in full up to the guaranteed amount, the corporation shall first receive ratable liquidation proceeds up to the amount paid by the corporation to a member prior to any payment of liquidation proceeds to the member whose share account was in excess of the guaranteed amount so that in these circumstances all liquidation proceeds after payment of the deficiency by the corporation shall first go to the corporation for the amount of its assigned claim before any payment is made to such member.

16144. The commissioner shall not direct the corporation in any one calendar year to pay any credit union share accounts that exceed in the aggregate the total in the fund after allowance for all amounts to be added to such accounts during such year by assessments as provided in this chapter.

#### Article 6. Authority of the Commissioner

16151. (a) Before the articles of incorporation of the corporation, or any amendments to the articles, are filed with the Secretary of State, a draft of the articles or proposed amendment shall be submitted to the commissioner for approval. Within 10 days after the articles of incorporation or amendments to the articles have been filed with the Secretary of State, a copy of the articles or amendments showing the date of filing with the Secretary of State shall be filed with the commissioner.

(b) Before the bylaws of the corporation, or any amendments to the bylaws, are adopted, a draft of the bylaws or proposed amendment shall be submitted to the commissioner for approval. Within 10 days after the bylaws or amendments to the bylaws are adopted, a copy of the bylaws or amendments showing the date of adoption shall be filed with the commissioner.

16152. Whenever it appears to the commissioner that the corporation has:

- (a) Violated its articles of incorporation or any law of this state;
- (b) Not paid amounts as directed by the commissioner pursuant to Section 16142;
- (c) Invested its funds in violation of Section 16121;

(d) Not levied assessments as required by Sections 16131 and 16132;

(e) Violated any provision of this chapter; or

(f) Neglected or refused to submit its books, papers, and affairs to the inspection of any examiner;

the commissioner may forthwith take possession of the property and business of the corporation and retain possession until the corporation satisfies the commissioner that it will operate in conformity with this chapter. During the time the commissioner has such possession he shall perform the duties and carry out the obligations of the corporation.

16153. Whenever the commissioner has taken possession of the property and business of the corporation, if it deems itself aggrieved thereby, the corporation may, within 10 days after such taking, apply to the superior court in the county in which the head office of the corporation is located to enjoin further proceedings. The court, after citing the commissioner to show cause why further proceedings should not be enjoined, and after a hearing and a determination of the facts upon the merits, may dismiss such application or enjoin the commissioner from further proceedings and direct him to surrender the property and business to the corporation, or make such further order as may be just.

16154. An appeal may be taken from the judgment of the court by the commissioner or by the corporation in the manner provided by law for appeals from the judgment of a superior court. An appeal from the judgment of the court shall not operate as a stay of the judgment unless the court, on good cause, so orders. No bond need be given if an appeal is taken by the commissioner but if the appeal is taken by the corporation a bond shall be given as required by Sections 917.2 and 917.5 of the Code of Civil Procedure as condition to any stay.

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.

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## CHAPTER 1098

An act to amend Sections 155.20, 2612, and 2621 of the Revenue and Taxation Code, and to amend Section 2 of Chapter 49 of the Statutes of 1979, relating to taxation.

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

**SECTION 1.** Section 155.20 of the Revenue and Taxation Code is amended to read:

**155.20.** On or before February 14 of each year, a county board of supervisors may exempt from property tax for the next succeeding fiscal year all real property with a base year value (as determined pursuant to Chapter 1 (commencing with Section 50) of Part 0.5 of Division 1) and personal property with a full value so low that, if not exempt, the total taxes, special assessments and applicable subventions on the property would amount to less than the cost of assessing and collecting them.

The board shall have no authority to exempt property with a base year value or full value of more than one thousand five hundred dollars (\$1,500).

In determining the level of the exemption, the board of supervisors shall determine at what level of exemption the costs of assessing the property and collecting taxes, assessments and subventions on such property exceeds the proceeds to be collected. The board shall establish the exemption level uniformly for classes of property. In making this determination, the board may consider the total taxes, special assessments and applicable subventions for the year of assessment only or for the year of assessment and succeeding years where cumulative revenues will not exceed the cost of assessments and collections.

This section does not apply to those real or personal properties enumerated in Section 52.

**SEC. 2.** Section 2 of Chapter 49 of the Statutes of 1979, as amended by Chapter 1188 of the Statutes of 1979, is amended to read:

**Sec. 2.** (a) Section 1 of this act shall be applied to the 1978-79 fiscal year and fiscal years thereafter.

(b) Except as otherwise provided in this subdivision, if the value of any property is reduced pursuant to Section 110.1 of the Revenue and Taxation Code, the reduced taxes resulting therefrom shall be refunded or shall be reflected in a corresponding reduction in the next succeeding tax installment or installments for such property in the 1979-80 fiscal year unless there was a change in the owner or owners of record between July 1, 1978, and June 30, 1979, in which case a refund of such reduced taxes shall be prorated between such owners of record in proportion to the time they owned the property during the fiscal year. In the event that the current address of a former owner of record of such property entitled to share in any such refund is not known to the county, that portion of such refund shall be withheld by the county and the owner may claim a refund from the county at any time prior to July 1, 1980. No reduction or refund shall be given pursuant to this subdivision of any amount previously levied to pay the interest and redemption charges on any indebtedness approved by the voters prior to July 1, 1978.

Interest may be paid on refunds made pursuant to this section, at the rate and in the manner specified in Section 5151 of the Revenue and Taxation Code.

SEC. 3. Section 2612 of the Revenue and Taxation Code is amended to read:

2612. On the tax bill for tax-sold property shall appear in writing the fact that it has been sold for delinquent taxes. In the alternative, the tax bill may contain language such as "prior year taxes delinquent," "unpaid prior year taxes jeopardize property," or any other language which would indicate the fact that the property is in jeopardy as a result of delinquent prior year taxes.

SEC. 4. Section 2621 of the Revenue and Taxation Code is amended to read:

2621. After the second half of taxes on property is delinquent, the tax collector shall collect a cost of five dollars (\$5) for preparing the delinquent roll and published delinquent list on separate valuation on the secured roll of:

- (a) Real property, except possessory interest.
- (b) Possessory interests.

(c) Personal property cross-secured to real property. The cost shall be collected even though the property appears on the roll due to a special assessment and no valuation of the property is given.

SEC. 5. The Legislature finds and declares that the limitation on the rate of property taxation imposed by Article XIII A of the California Constitution has caused the costs of assessment and collection to exceed the revenues received from property taxes imposed on property with a value of one thousand five hundred dollars (\$1,500) or less.

SEC. 5.5. Section 4 of this act shall apply to fiscal year 1981-82 and fiscal years thereafter.

SEC. 6. Notwithstanding Section 2229 of the Revenue and Taxation Code, no local agency or school district shall receive reimbursement for any property tax revenues loss pursuant to this act, because the provisions of this act are optional and the exemption provided for in Section 1 of this act is by definition at a level which offsets costs of an equal amount which would otherwise occur.

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## CHAPTER 1099

An act to amend Section 776 of the Public Utilities Code, relating to public utilities.

[Approved by Governor September 25, 1980 Filed with  
Secretary of State September 26, 1980.]

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

SECTION 1. Section 776 of the Public Utilities Code is amended to read:

776. (a) Except as provided by subdivision (b), the commission may permit a telephone corporation to assess a separate charge for provision of telephone numbers by operators, over and above what

is included in the monthly service charge, when a residential or business subscriber places more than 20 requests for telephone numbers during the monthly billing cycle period of the subscriber's account.

(b) No charge authorized under subdivision (a) shall be assessed the account of a subscriber to residential telephone service when the subscriber or any person residing in the subscriber's household and using the telephone service is visually impaired or physically disabled. For purposes of this subdivision, "competent authority" includes a physician and surgeon, optometrist, or any person authorized for this purpose by the commission. A telephone corporation shall grant the exemption from such charge pursuant to this subdivision upon receipt of a completed and signed application for exemption on a form furnished by the corporation or, in the alternative, a letter prepared and signed by the competent authority to substantially the same effect.

(c) The commission shall develop and implement a plan for exemption from any charge authorized under subdivision (a), for persons who are visually impaired or physically disabled as specified in subdivision (b), at the places of employment of such persons that is applicable to the use of a telephone in the course or scope of employment. The commission may direct that the exemption shall be applicable to the use of a telephone by such person rather than applicable to the account of the place of employment.

(d) Whenever such separate charge is put into effect pursuant to subdivision (a), any use of a recorded announcement before the operator's response to a request for a telephone number shall be discontinued.

(e) After January 1, 1983, the commission shall review the results of any charging plan put into effect by telephone corporations pursuant to subdivision (a) of this section and by April 1, 1983, shall provide a determination and order concerning telephone corporation directory assistance programs.

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## CHAPTER 1100

An act to amend Section 1241 of the Water Code, relating to water rights, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1980. Filed with  
Secretary of State September 26, 1980.]

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

SECTION 1. 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. 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 clarify the water rights of persons who have reduced water consumption as a result of water conservation practices and who face the possible loss of water rights, and in order to encourage water conservation, it is necessary that the provisions of this act take effect immediately.

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## CHAPTER 1101

An act to add Sections 5024 and 5024.5 to the Public Resources Code, relating to historical resources.

[Approved by Governor September 25, 1980 Filed with  
Secretary of State September 26, 1980 ]

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

SECTION 1. Section 5024 is added to the Public Resources Code, to read:

5024. (a) On or before January 1, 1982, each state agency shall formulate policies to preserve and maintain, when prudent and feasible, all state-owned historical resources under its jurisdiction listed in or potentially eligible for inclusion in the National Register of Historic Places or registered or eligible for registration as a state historical landmark pursuant to Section 5021. The State Historic Preservation Officer shall provide such agencies with advice and assistance as needed.

(b) On or before July 1, 1983, each state agency shall submit to the State Historic Preservation Officer an inventory of all state-owned structures over 50 years of age under its jurisdiction listed in or which may be eligible for inclusion in the National Register of Historic Places or registered or which may be eligible for registration as a state historical landmark. State-owned structures in freeway rights-of-way shall be inventoried before approval of any undertaking which would alter their original or significant features or fabric, or transfer, relocate or demolish those structures.

(c) The State Historic Preservation Officer, with the advice of the State Historical Resources Commission, shall establish standards, after consultation with agencies to be affected, for the submittal of inventories and development of policies for the review of historical resources identified pursuant to this section. These review procedures shall permit the State Historic Preservation Officer to determine which historical resources identified in inventories meet National Register of Historic Places and state historical landmark criteria and shall be placed in the master list of historical resources.

(d) The State Historic Preservation Officer shall maintain a master list comprised of all inventoried structures submitted and determined significant pursuant to this section and all state-owned historical resources currently listed in the National Register of Historic Places or registered as a state historical landmark under state agency jurisdiction. The State Historic Preservation Officer shall inform agencies with historical resources on the master list of current sources of funding for preservation activities, including rehabilitation and restoration.

(e) On or before July 1, 1984, and annually thereafter, each state agency shall submit inventory updates to the State Historic Preservation Officer and a statement of its year's preservation activities.

(f) Each state agency shall submit to the State Historic Preservation Officer for comment documentation for any project having the potential to affect historical resources listed in or potentially eligible for inclusion in the National Register of Historic Places or registered as or eligible for registration as a state historical landmark.

(g) As used in this section and Section 5024.5, "state agency" means any agency, department, division, commission, board, bureau, officer, or other authority of the State of California.

(h) As used in this section and Section 5024.5, "structure" means an immovable work constructed by man having interrelated parts in a definite pattern of organization and used to shelter or promote a form of human activity and which constitutes an historical resource.

SEC. 2. Section 5024.5 is added to the Public Resources Code, to read:

5024.5. (a) No state agency shall alter the original or significant historical features or fabric, or transfer, relocate, or demolish historical resources on the master list maintained pursuant to subdivision (d) of Section 5024 without, early in the planning processes, first giving notice and a summary of the proposed action to the State Historic Preservation Officer who shall have 30 days after receipt of the notice and summary for review and comment.

(b) If the State Historic Preservation Officer determines that a proposed action will have an adverse effect on a listed historical resource, the head of the state agency having jurisdiction over the historical resource and the State Historic Preservation Officer shall adopt prudent and feasible measures that will eliminate or mitigate the adverse effects. The State Historical Building Code Advisory Board shall be consulted by the State Historic Preservation Officer for advice when appropriate.

(c) Each state agency shall maintain written documentation of State Historic Preservation Officer concurrence with proposed actions which would have an effect on an historical resource on the master list.

(d) The State Historic Preservation Officer shall report to the Office of Planning and Research for mediation instances of state agency refusal to propose, to consider, or to adopt prudent and feasible alternatives to eliminate or mitigate adverse effects on

historical resources on the master list as specified in subdivision (f) of Section 5024.

(e) The State Historic Preservation Officer may monitor the implementation of proposed actions of any state agency.

(f) Until such time as a structure is evaluated for possible inclusion in the inventory pursuant to subdivisions (b) and (c) of Section 5024, state agencies shall assure that any structure which might qualify for listing is not inadvertently transferred or unnecessarily altered.

(g) The State Historic Preservation Officer may provide local governments with information on methods to preserve their historical resources.

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## CHAPTER 1102

An act to amend Sections 7504, 20023.1, 20100, 20102, 20102.1, 20393, 20652, 21021.5, 21200.1, 21263, 21263.4, 21263.5, 21360, 21363.5, 21363.6, and 21364 of, to add Sections 20101, 20160, and 21382.3 to, and to repeal Sections 20101, 20160, and 20162 of, the Government Code, relating to the Public Employees' Retirement System.

[Approved by Governor September 25, 1980 Filed with  
Secretary of State September 26, 1980.]

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

**SECTION 1.** Section 7504 of the Government Code is amended to read:

**7504.** (a) All state and local public retirement systems shall, not less than triennially, secure the services of an enrolled actuary. An enrolled actuary, for the purposes of this section, means an actuary enrolled under subtitle C of Title III of the Employee Retirement Income Security Act of 1974 and who has demonstrated experience in public retirement systems. The actuary shall perform a valuation of the system utilizing actuarial assumptions and techniques established by the agency which are, in the aggregate, reasonably related to the experience and the actuary's best estimate of anticipated experience under the system. Any differences between the actuarial assumptions and techniques used by the actuary which differ significantly from those established by the agency shall be disclosed in the actuary's report and the effect of such differences on the actuary's statement of costs and obligations shall be shown.

(b) All state and local public retirement systems shall secure the services of a qualified person to perform an attest audit of the system's financial statements. A qualified person means any of the following:

(1) A person who is licensed to practice as a certified public accountant in this state by the State Board of Accountancy.

(2) A person who is registered and entitled to practice as a public

accountant in this state by the State Board of Accountancy.

(3) A county auditor in any county subject to the County Employees Retirement Law of 1937.

(4) A county auditor in any county having a pension trust and retirement plan established pursuant to Section 53216.

(c) All state and local public retirement systems shall submit audited financial statements to the State Controller within six months of the close of each fiscal year. However, the State Controller may delay the filing date for reports due in the first year until such time as report forms have been developed which, in his judgment, will satisfy the requirements of this section. The financial statements shall be prepared in accordance with generally accepted accounting principles in the form and manner prescribed by the State Controller. The penalty prescribed in Section 53895 shall be invoked for failure to comply with this section. Upon a satisfactory showing of good cause, the State Controller may waive the penalty for late filing provided by this subdivision.

(d) The State Controller shall compile and publish a report annually on the financial condition of all state and local public retirement systems containing, but not limited to, the data required in Section 7502.

SEC. 2. Section 20023.1 of the Government Code is amended to read:

20023.1. The average monthly salary during any period of service as a member of a county retirement system established under the County Employees Retirement Law of 1937 shall be considered compensation earnable by a member of this system for purposes of computing final compensation for such member provided:

(1) Entry into employment in which he became a member in one system occurred on or after October 1, 1957, and within 90 days of discontinuance of employment as a member of the other system.

This subdivision shall not deny the benefit of this section to any person retiring after October 1, 1963, who entered such membership prior to October 1, 1957, if he entered the employment in which he became a member within 90 days of termination of employment in which he was a member of the other system, and he became a member within seven months of entry into such employment, or, if an employee of a district as defined in Section 31468, became a member at the time the district was included in a county retirement system established under the County Employees Retirement Law of 1937.

(2) He retires concurrently under both systems and is credited with such period of service under the county system at the time of retirement.

SEC. 3. Section 20100 of the Government Code is amended to read:

20100. The board of administration of this system is continued in existence.

It consists of:

(a) One member of the State Personnel Board, selected by and serving at the pleasure of the State Personnel Board.

(b) The Director of Finance.

(c) An official of a life insurer, an officer of a bank, and an elected official of a contracting agency, and one person representing the public, appointed by the Governor.

(d) Five members elected under the supervision of the board as follows:

(1) A member elected by the members of the system from the membership thereof.

(2) A member elected by the active state members of the system from the state membership thereof.

(3) A member elected by and from the active local members of the system who are employees of a school district or a county superintendent of schools.

(4) A member elected by and from the active local members of the system other than those who are employees of a school district or a county superintendent of schools.

(5) A member elected by and from the retired members of the system.

SEC. 4. Section 20101 of the Government Code is repealed.

SEC. 5. Section 20101 is added to the Government Code, to read:

20101. The term of office of members of the board is four years expiring on January 15th in the order heretofore fixed by law.

The board shall hold special elections to fill vacancies which occur during the term of elected members of the board. If at the time a vacancy occurs, the unexpired term is less than two years, the new member elected to fill such vacancy shall hold office for a period equal to the remainder of the term of the vacated office plus four years.

The Governor shall fill a vacancy of a member appointed pursuant to subdivision (c) of Section 20100 by the appointment of a person having the requisite qualifications for the remainder of the vacated term of office.

SEC. 6. Section 20102 of the Government Code is amended to read:

20102. The board shall cause ballots to be distributed to each active and retired member of the system in advance of each election, and shall provide for the return of the voted ballots to the Secretary of State without cost to the member. The ballots cast shall be canvassed by the Secretary of State.

SEC. 7. Section 20102.1 of the Government Code is amended to read:

20102.1. Notwithstanding any other provision of this part, any person elected to the board under paragraph (2), (3), or (4) of subdivision (d) of Section 20100 shall be entitled to hold such office until the end of the term.

SEC. 8. Section 20160 of the Government Code is repealed.

SEC. 9. Section 20160 is added to the Government Code, to read:

20160. Each state agency, each school employer, and the chief administrative officer of a contracting agency or such other person as its governing body may designate, shall furnish:

(a) Immediate written notice to the board of the change in status of any member resulting from transfer, promotion, leave of absence, resignation, reinstatement, dismissal, or death.

(b) Such additional information concerning any such member as the board may require in the administration of this system.

(c) Such services of its officers and departments as the board may request in connection with claims by such members against this system.

SEC. 11. Section 20162 of the Government Code is repealed.

SEC. 12. Section 20393 of the Government Code is amended to read:

20393. Notwithstanding any other provision of this part, a member who is credited with five or more years of service shall have the right to elect, not later than 90 days after the date upon which notice of such right is mailed by this system to the member's latest address on file in the office of this system, whether to leave such accumulated contributions on deposit in the retirement fund.

A member who is credited with less than five years of service and who enters employment as a member of a public retirement system supported, in whole or in part, by state funds, including the University of California Retirement System, or as a member of a retirement system established under the County Employees Retirement Law of 1937, within six months of leaving state service, shall have the right to elect to leave such accumulated contributions on deposit in the retirement fund. Failure to make such election shall be deemed an irrevocable election to withdraw such accumulated contributions.

An election to allow accumulated contributions to remain in the retirement fund may be revoked by the member at any time, except while the member is employed in state service in a position in which the member is not excluded from membership with respect to such service or while the member is in service as a member of a public retirement system supported, in whole or in part, by state funds, including the University of California Retirement System, or as a member of a retirement system established under the County Employees Retirement Law of 1937, within six months after discontinuing state service. All contributions accumulated up to the time of revocation may then be withdrawn. A member whose membership continues under this section is subject to the same age and disability requirements as apply to other members for service or for disability retirement. After the qualification of such member for retirement by reason of age, which shall be the lowest age applicable to any membership category in which the member has credited service, or disability, the member shall be entitled to receive a retirement allowance based upon the amount of the member's accumulated contributions and service standing to the member's

credit at the time of retirement and on the employer contributions held for the member and calculated in the same manner as for other members, except that the provisions in this part for minimum service and disability retirement allowances shall not apply to the member, unless the member meets such minimum service requirements. If a basic death benefit becomes payable under Article 5 (commencing with Section 21360) of Chapter 9 of this part because of death before retirement of such a member, the average annual compensation earnable in the year preceding the date of termination of such service, rather than in the year preceding death, shall be used in computing such benefit under such Article 5 of Chapter 9.

The provisions of this section, as it read prior to June 21, 1971, shall continue with respect to a member whose membership continued under this section on such date.

SEC. 13. Section 20652 of the Government Code is amended to read:

20652. If the state service or membership herein of a member is discontinued, except by death on account of which a basic, a limited, or a special death benefit is payable or by retirement, he shall, upon his request, be paid his accumulated contributions, except that, if he is credited with less than five years of state service and, in the opinion of the board, is permanently separated from state service by reason of such discontinuance, he shall be paid his accumulated contributions.

SEC. 14. Section 21021.5 of the Government Code is amended to read:

21021.5. A member whose membership continues under Section 20393 shall be retired for disability and receive a retirement allowance based on the service credited to him at time of retirement during any period in which he receives a disability retirement allowance under a retirement system established under the County Employees Retirement Law of 1937, subject to the following conditions:

(1) That such allowance shall not be paid if entry into employment resulting in membership of the county system occurred prior to October 1, 1957, or after more than 90 days of discontinuance of state service.

(2) That such allowance shall not exceed an amount which, when added to the allowance paid under the other system, equals the allowance which would be paid if the member's state service were credited under such other system where retirement is for disability not arising out of or in the course of employment subject to such other system; provided, however, that the allowance shall in any event be no less than an annuity which is the actuarial equivalent of member's contributions.

(3) That such allowance shall be an annuity which is the actuarial equivalent of accumulated contributions where retirement under the other system is for disability arising out of and in the course of employment subject to the other system.

SEC. 15. Section 21200.1 of the Government Code is amended to read:

21200.1. Retirement shall be effective and the retirement allowance shall begin to accrue as of the date designated in the member's application as the effective date of retirement, or upon the day following the last day for which salary is payable if that day postdates the day designated by the person as the effective date or if the member has not designated an effective date. In no event shall the retirement become effective or the retirement allowance begin to accrue earlier than the first day of the month in which the member's application is received at an office of the board or by an employee of the system designated by the board, or, if the member has been incompetent to act on his own behalf continuously from the last day for which salary was payable, one year prior to the month in which an application by the guardian of his estate is so received. An application for retirement may only be filed by or for a member who is living on the date the application is actually received by this system.

SEC. 16. Section 21263 of the Government Code is amended to read:

21263. Upon the death of a patrol or state safety member whose retirement for service or disability is effective on or after the operative date of this section, a monthly allowance derived from employer contributions equal to a percentage of the amount of his retirement allowance as it was at his death based on service credited to him as a member subject to this section, but excluding any portion of the retirement allowance derived from additional contributions of the member, shall be paid to the surviving spouse throughout life or until remarriage. Such percentage shall be 25 percent for an allowance based on service for which the allowance is reduced because the service was also covered under the federal system and 50 percent for an allowance based on any other service. If there is no surviving spouse, or upon death or remarriage of such spouse before every child of the deceased member attains the age of 18, such allowance shall be paid to his child or children under such age, collectively, until every such child dies or attains such age; provided, that no child shall receive any allowance after marrying or attaining such age. If, at the time of the retired member's death, there is no surviving spouse or children under age 18, the allowance shall be paid to a parent or collectively to parents of the deceased member dependent upon him for support. If, at the effective date of his retirement, the member has no surviving spouse, eligible children, or dependent parents and elected an optional settlement, no allowance under this section shall be paid.

"Surviving spouse," for purposes of this section, means a husband or wife who was married to the member for a continuous period beginning at least one year prior to his retirement and ending on the date of his death.

A natural parent of surviving children eligible to receive an

allowance payable under this section shall not be required to become the guardian of surviving unmarried children under 18 years of age in order to be paid the benefits prescribed for such children.

SEC. 17. Section 21263.4 of the Government Code is amended to read:

21263.4. Upon the death, after the effective date of retirement, of a state miscellaneous member none of whose service rendered in state employment has been included in the federal system and whose retirement is effective on or after July 1, 1974, a monthly allowance derived from employer contributions equal to 50 percent of the amount of his retirement allowance as it was at his death and based on service credited to him as a member subject to this section, but excluding any portion of the retirement allowance derived from additional contribution of the member, shall be paid to the surviving spouse throughout life or until remarriage. If there is no surviving spouse, or upon death or remarriage of such spouse before every child of the deceased member attains the age of 18, such allowance shall be paid to his child or children under such age, collectively, until every such child dies or attains such age; provided, that no child shall receive any allowance after marrying or attaining such age. If, at the time of the retired person's death, there is no surviving spouse or children under age 18, the allowance shall be paid to a parent or collectively to parents of the deceased member dependent upon him for support. If, at the effective date of retirement, there is a person who will be eligible if such person survives, the member's election of an optional settlement, other than optional settlement one, shall apply only to a portion of his allowance as provided in Section 21330 with respect to allowances under Section 21263. If, at the effective date of his retirement, the member has no surviving spouse, eligible children, or dependent parents and elected an optional settlement, no allowance under this section shall be paid.

"Surviving spouse," for purposes of this section, means a husband or wife who was married to the member for a continuous period beginning at least one year prior to his retirement and ending on the date of his death.

Notwithstanding Section 20019.1 making provisions applicable to state miscellaneous members applicable to school members, this section shall not apply to school members.

A natural parent of surviving children eligible to receive an allowance payable under this section shall not be required to become the guardian of surviving unmarried children under 18 years of age in order to be paid the benefits prescribed for such children.

SEC. 18. Section 21263.5 of the Government Code is amended to read:

21263.5. Upon death after the effective date of retirement of a state miscellaneous member some of whose service rendered in state employment has been included in the federal system and whose retirement is effective on or after July 1, 1975, a monthly allowance, derived from employer contributions, equal to a percentage of the

amount of his retirement allowance as it was at his death based on service credited to him as a member subject to this section, but excluding any portion of the retirement allowance derived from additional contributions, shall be paid to the surviving spouse throughout life or until remarriage. Such percentage shall be 25 percent for an allowance based on service for which the allowance is reduced because the service was also covered under the federal system and 50 percent for an allowance based on any other service. If there is no surviving spouse, or upon death or remarriage of such spouse before every child of the deceased member attains the age of 18, such allowance shall be paid to the retired person's child or children under such age, collectively, until every such child dies or attains such age; provided, that no child shall receive any allowance after marrying or attaining such age. If, at the time of the retired person's death, there is no surviving spouse or children under age 18, the allowance shall be paid to a parent or collectively to parents of the deceased member dependent upon him for support. If, at the effective date of retirement, there is a person who will be eligible if such person survives, the member's election of an optional settlement, other than optional settlement one, shall apply only to a portion of the allowance as provided in Section 21330 with respect to allowances under Section 21263. If, at the effective date of his retirement, the member has no surviving spouse, eligible children, or dependent parents and elected an optional settlement, no allowance under this section shall be paid.

"Surviving spouse," for purposes of this section, means a husband or wife who was married to the member for a continuous period beginning at least one year prior to his retirement and ending on the date of his death.

Notwithstanding Section 20019.1, this section shall not apply to school members.

A natural parent of surviving children eligible to receive an allowance payable under this section shall not be required to become the guardian of surviving unmarried children under 18 years of age in order to be paid the benefits prescribed for such children.

SEC. 19. Section 21360 of the Government Code is amended to read:

21360. This system is liable for either the basic or special death benefit upon the death of a member (a) before the effective date of retirement, and (1) while in state service, or (2) while absent on military service and who makes contributions under Section 20891 or 20891.1 or for whom contributions will be made under Section 20894.5, or (3) within four months after discontinuance of state service, or while on an approved leave of absence, or (4) while physically or mentally incapacitated for the performance of duty, if such incapacity has been continuous from discontinuance of state service, or (5) while employed as a member of a retirement system established under the County Employees Retirement Law of 1937 (Chapter 3 (commencing with Section 31450) of Part 3 of Division

4 of Title 3); provided, such employment resulting in membership was begun on or after October 1, 1957, and within 90 days of discontinuance of state service, or (b) on or after the effective date of retirement and before the mailing of a retirement allowance warrant and either within four months of discontinuance of state service or while physically or mentally incapacitated for the performance of duty if such incapacity has been continuous from discontinuance of state service and providing all of the following conditions exist: (1) the retirement of the member was not compulsory under Article 2 (commencing with Section 20980) of Chapter 8, and (2) he has not elected optional settlement 2 or 3 or an optional settlement 4 involving payment of an allowance throughout the life of a beneficiary under Article 4 (commencing with Section 21330) of Chapter 9, and (3) a partially continued allowance under Sections 21263 to 21263.6, inclusive, is not payable. Upon the death of a member before the effective date of his retirement or, with respect to (1) any member whose retirement was not compulsory under Article 2 (commencing with Section 20980) of Chapter 8, and (2) any member who has not elected optional settlement 2 or 3 or an optional settlement 4 involving payment of an allowance throughout the life of a beneficiary under Article 4 (commencing with Section 21330) of Chapter 9, on or after such effective date and before the mailing of a retirement allowance warrant, under circumstances in which this system is not so liable for either the basic or special death benefit and a partially continued allowance under Sections 21263 to 21263.6, inclusive, is not payable, this system is liable for a limited death benefit which consists only of the accumulated contributions of the member payable to his beneficiary or to his estate.

Liability imposed on the system with respect to the death of a member while on approved leave of absence by amendment to this section enacted during the 1965 Regular Session shall extend to death of members occurring on or after July 1, 1964, and to any benefit for which there would have been liability with respect to such death had such amendment been effective on that date.

SEC. 20. Section 21363.5 of the Government Code is amended to read:

21363.5. The special death benefit payable with respect to a member who at death prior to March 7, 1973, was a warden, forestry, harbor police, or law enforcement member shall be continued in accordance with the provisions of this part as they read and applied to such benefit on the day preceding that date.

A natural parent of surviving children eligible to receive an allowance payable under this section shall not be required to become the guardian of surviving unmarried children under 18 years of age in order to be paid the benefits prescribed for such children.

SEC. 21. Section 21363.6 of the Government Code is amended to read:

21363.6. The special death benefit is also payable if the deceased

was the Administrator of the Youth and Adult Corrections Agency, or was a state member appointed by the Administrator of the Youth and Adult Corrections Agency, the Youth Authority, the Board of Trustees of the California Institution for Women or the California Women's Board of Terms and Parole, the Board of Corrections, or was a member of the Board of Corrections or the Youth Authority not already classified as a prison member, provided that his death occurred as a result of misconduct of an inmate of a state prison, correctional school or facility of the Department of Corrections or the Youth Authority, or a parolee therefrom.

The special death benefit provided by this section is not payable unless the death of the member arose out of and was in the course of his official duties and unless there is a survivor who qualifies under subdivision (b) of Section 21364. The Workers' Compensation Appeals Board, using the same procedure as in workers' compensation hearings, shall in disputed cases determine whether the member's death arose out of and in the course of his official duties.

A natural parent of surviving children eligible to receive an allowance payable under this section shall not be required to become the guardian of surviving unmarried children under 18 years of age in order to be paid the benefits prescribed for such children.

SEC. 22. Section 21364 of the Government Code is amended to read:

21364. The special death benefit consists of:

(a) An amount equal to and derived from the same source as the basic death benefit exclusive of the contributions from which the annuity provided under subdivision (c) of this section is paid; and

(b) An amount sufficient, when added to the amount provided under subdivision (a) of this section, to provide, when applied according to tables adopted by the board, a monthly death allowance, equal to one-half of his or her final compensation in the membership category applicable to him or her at the time of the injury or the onset of the disease causing death, payable to the surviving spouse to whom he or she was married prior to sustaining the injury or disease resulting in death, as long as such spouse lives or until his or her remarriage; or, if there is no surviving spouse or if such spouse dies or remarries before all children of the deceased member attain age 18, to his or her children under 18 collectively until every child shall have died, married, or attained age 18; provided, that no child shall receive any part of the allowance after marrying or attaining age 18. During the lifetime of the surviving spouse or until such spouse remarries, an additional percentage of the death benefit allowed by this section, exclusive of the annuity under subdivision (c), shall be paid to such spouse of a member who is killed in the performance of his or her duty or who dies as a result of an accident or an injury caused by external violence or physical force, incurred in the performance of his or her duty, for each of his or her children during the lifetime of the child, or until the child

marries or reaches the age of 18, as follows: for one child, 25 percent; for two children, 40 percent; and for three or more children, 50 percent; and

(c) An annuity which is the actuarial equivalent, assuming monthly payments for life to the surviving spouse, of the deceased's accumulated additional contributions at the date of his or her death, plus his or her accumulated contributions at that date based on compensation earned in any membership category other than the category applicable to him or her at the time of the injury or the onset of the disease causing death.

In the event the surviving spouse does not have custody of the member's children, the additional amount payable pursuant to this section shall be payable to the person having custody of the children for each child during the lifetime of the child, or until the child marries or reaches the age of 18.

The computation for time prior to entering the membership category applicable to the deceased at the time of the injury or the onset of the disease causing death shall be based on the compensation earnable by him or her in the position first held by him or her in that category.

"Spouse," for purposes of this section, means a wife or husband.

A natural parent of surviving children eligible to receive an allowance payable under this section shall not be required to become the guardian of surviving unmarried children under 18 years of age in order to be paid the benefits prescribed for such children.

(d) On and after October 1, 1965, the provisions of this section shall apply to all contracting agencies and to the employees of all contracting agencies whether or not such agencies have previously elected to be subject to the provisions of this section.

Any child whose eligibility for an allowance pursuant to this section, commenced on or after October 1, 1965, shall lose that eligibility effective on the date of his adoption.

SEC. 23. Section 21382.3 is added to the Government Code, to read:

21382.3. A natural parent of surviving children eligible to receive an allowance payable under this article shall not be required to become the guardian of surviving unmarried children under 18 years of age in order to be paid the benefits prescribed for such children.

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## CHAPTER 1103

An act to add Section 30170.6 to the Public Resources Code, relating to the California Coastal Zone.

[Approved by Governor September 25, 1980 Filed with  
Secretary of State September 26, 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 that portion of the County of San Diego known as Green Valley is generally described by a line commencing on the existing coastal zone boundary at a point on the westerly right-of-way of El Camino Real that is 1,000 feet southeasterly of the mean high tide line of Batiquitos Lagoon; westerly for 3,000 feet along a line 1,000 feet southerly from the mean high tide line of Batiquitos Lagoon; southerly for 6,500 feet along a line 3,000 feet westerly of El Camino Real; and easterly to a point in the vicinity of the intersection of El Camino Real and Olivenhain Road on the existing coastal zone boundary.

This section shall not become operative if, within six months following submission to the regional commission, the commission approves, or approves with conditions, pursuant to Section 30512 that portion of the County of San Diego's land use plan of its proposed local coastal program that applies to the land area described in this section.

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## CHAPTER 1104

An act to amend Sections 389 and 781 of, to repeal Sections 826 and 826.5 of, and to add Sections 826, 826.5, and 826.6 to, the Welfare and Institutions Code, relating to juveniles.

[Approved by Governor September 25, 1980 Filed with  
Secretary of State September 26, 1980 ]

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

SECTION 1. Section 389 of the Welfare and Institutions Code is amended to read:

389. (a) In any case in which a petition has been filed with a juvenile court to commence proceedings to adjudge a person a dependent child of the court, in any case in which a person is cited to appear before a probation officer or is taken before a probation officer pursuant to Section 307, or in any case in which a minor is taken before any officer of a law enforcement agency, the person or the county probation officer may, five years or more after the jurisdiction of the juvenile court has terminated as to the person, or, in a case in which no petition is filed, five years or more after the

person was cited to appear before a probation officer or was taken before a probation officer pursuant to Section 307 or was taken before any officer of a law enforcement agency, or, in any case, at any time after the person has reached the age of 18 years, petition the court for sealing of the records, including records of arrest, relating to the person's case, in the custody of the juvenile court and probation officer and any other agencies, including law enforcement agencies, and public officials as petitioner alleges, in his petition, to have custody of such records. The court shall notify the district attorney of the county and the county probation officer, if he is not the petitioner of the petition, and such district attorney or probation officer or any of their deputies or any other person having relevant evidence may testify at the hearing on the petition. If, after hearing, the court finds that since such termination of jurisdiction or action pursuant to Section 307, as the case may be, he has not been convicted of a felony or of any misdemeanor involving moral turpitude and that rehabilitation has been attained to the satisfaction of the court, it shall order sealed all records, papers, and exhibits in the person's case in the custody of the juvenile court, including the juvenile court record, minute book entries, and entries on dockets, and other records relating to the case in the custody of such other agencies and officials as are named in the order. Thereafter, the proceedings in such case shall be deemed never to have occurred, and the person may properly reply accordingly to any inquiry about the events, records of which are ordered sealed. The court shall send a copy of the order to each agency and official named therein directing the agency to seal its records and five years thereafter to destroy the sealed records. Each such agency and official shall seal records in its custody as directed by the order, shall advise the court of its compliance, and thereupon shall seal the copy of the court's order for sealing of records that it or he received. The person who is the subject of records sealed pursuant to this section may petition the superior court to permit inspection of the records by persons named in the petition, and the superior court may so order. Otherwise, except as provided in subdivision (b), such records shall not be open to inspection.

(b) In any action or proceeding based upon defamation, a court, upon a showing of good cause, may order any records sealed under this section to be opened and admitted into evidence. The records shall be confidential and shall be available for inspection only by the court, jury, parties, counsel for the parties, and any other person who is authorized by the court to inspect them. Upon the judgment in the action or proceeding becoming final, the court shall order the records sealed.

(c) Five years after a juvenile court record has been sealed, the court shall order the destruction of the sealed juvenile court record unless for good cause the court determines that the juvenile court record shall be retained. Any other agency in possession of sealed records shall destroy their records five years after the records were

ordered sealed.

SEC. 2. Section 781 of the Welfare and Institutions Code is amended to read:

781. (a) In any case in which a petition has been filed with a juvenile court to commence proceedings to adjudge a person a ward of the court, in any case in which a person is cited to appear before a probation officer or is taken before a probation officer pursuant to Section 626, or in any case in which a minor is taken before any officer of a law enforcement agency, the person or the county probation officer may, five years or more after the jurisdiction of the juvenile court has terminated as to the person, or, in a case in which no petition is filed, five years or more after the person was cited to appear before a probation officer or was taken before a probation officer pursuant to Section 626 or was taken before any officer of a law enforcement agency, or, in any case, at any time after the person has reached the age of 18 years, petition the court for sealing of the records, including records of arrest, relating to the person's case, in the custody of the juvenile court and probation officer and any other agencies, including law enforcement agencies, and public officials as petitioner alleges, in his petition, to have custody of such records. The court shall notify the district attorney of the county and the county probation officer, if he is not the petitioner of the petition, and such district attorney or probation officer or any of their deputies or any other person having relevant evidence may testify at the hearing on the petition. If, after hearing, the court finds that since such termination of jurisdiction or action pursuant to Section 626, as the case may be, he has not been convicted of a felony or of any misdemeanor involving moral turpitude and that rehabilitation has been attained to the satisfaction of the court, it shall order sealed all records, papers, and exhibits in the person's case in the custody of the juvenile court, including the juvenile court record, minute book entries, and entries on dockets, and other records relating to the case in the custody of such other agencies and officials as are named in the order. Thereafter, the proceedings in such case shall be deemed never to have occurred, and the person may properly reply accordingly to any inquiry about the events, records of which are ordered sealed. The court shall send a copy of the order to each agency and official named therein directing the agency to seal its records and five years thereafter to destroy the sealed records. Each such agency and official shall seal records in its custody as directed by the order, shall advise the court of its compliance, and thereupon shall seal the copy of the court's order for sealing of records that it or he received. The person who is the subject of records sealed pursuant to this section may petition the superior court to permit inspection of the records by persons named in the petition, and the superior court may so order. Otherwise, except as provided in subdivision (b), such records shall not be open to inspection.

(b) In any action or proceeding based upon defamation, a court, upon a showing of good cause, may order any records sealed under

this section to be opened and admitted into evidence. The records shall be confidential and shall be available for inspection only by the court, jury, parties, counsel for the parties, and any other person who is authorized by the court to inspect them. Upon the judgment in the action or proceeding becoming final, the court shall order the records sealed.

(c) When the person who is the subject of the juvenile court records sealed pursuant to this section reaches the age of 38, the court shall order the destruction of the sealed juvenile court record unless for good cause the court determines that the juvenile court record shall be retained. Any other agency in possession of sealed records shall destroy their records when the person who is the subject of the particular record reaches the age of 38.

SEC. 2.5. Section 781 of the Welfare and Institutions Code is amended to read:

781. (a) In any case in which a petition has been filed with a juvenile court to commence proceedings to adjudge a person a ward of the court, in any case in which a person is cited to appear before a probation officer or is taken before a probation officer pursuant to Section 626, or in any case in which a minor is taken before any officer of a law enforcement agency, the person or the county probation officer may, five years or more after the jurisdiction of the juvenile court has terminated as to the person, or, in a case in which no petition is filed, five years or more after the person was cited to appear before a probation officer or was taken before a probation officer pursuant to Section 626 or was taken before any officer of a law enforcement agency, or, in any case, at any time after the person has reached the age of 18 years, petition the court for sealing of the records, including records of arrest, relating to the person's case, in the custody of the juvenile court and probation officer and any other agencies, including law enforcement agencies, and public officials as petitioner alleges, in his petition, to have custody of such records. The court shall notify the district attorney of the county and the county probation officer, if he is not the petitioner of the petition, and such district attorney or probation officer or any of their deputies or any other person having relevant evidence may testify at the hearing on the petition. If, after hearing, the court finds that since such termination of jurisdiction or action pursuant to Section 626, as the case may be, he has not been convicted of a felony or of any misdemeanor involving moral turpitude and that rehabilitation has been attained to the satisfaction of the court, it shall order sealed all records, papers, and exhibits in the person's case in the custody of the juvenile court, including the juvenile court record, minute book entries, and entries on dockets, and other records relating to the case in the custody of such other agencies and officials as are named in the order. Thereafter, the proceedings in such case shall be deemed never to have occurred, and the person may properly reply accordingly to any inquiry about the events, records of which are ordered sealed. The court shall send a copy of the order to each

agency and official named therein, directing the agency to seal its records and five years thereafter to destroy the sealed records. Each such agency and official shall seal records in its custody as directed by the order, shall advise the court of its compliance, and thereupon shall seal the copy of the court's order for sealing of records that it or he received. The person who is the subject of records sealed pursuant to this section may petition the superior court to permit inspection of the records by persons named in the petition, and the superior court may so order. Otherwise, except as provided in subdivision (b), such records shall not be open to inspection.

(b) In any action or proceeding based upon defamation, a court, upon a showing of good cause, may order any records sealed under this section to be opened and admitted into evidence. The records shall be confidential and shall be available for inspection only by the court, jury, parties, counsel for the parties, and any other person who is authorized by the court to inspect them. Upon the judgment in the action or proceeding becoming final, the court shall order the records sealed.

(c) When the person who is the subject of the juvenile court records sealed pursuant to this section reaches the age of 38, the court shall order the destruction of the sealed juvenile court record unless for good cause the court determines that the juvenile court record shall be retained. Any other agency in possession of sealed records shall destroy their records when the person who is the subject of the particular record reaches the age of 38.

(d) (1) The provisions of subdivision (a) shall not apply to Department of Motor Vehicle records of any convictions for offenses under the Vehicle Code or any local ordinance relating to the operation, stopping and standing, or parking of a vehicle where the record of any such conviction would be a public record under Section 1808 of the Vehicle Code. However, if a court orders a case record containing any such conviction to be sealed under this section, and if the Department of Motor Vehicles maintains a public record of such a conviction, the court shall notify the Department of Motor Vehicles of the sealing and the department shall advise the court of its receipt of the notice.

Notwithstanding any other provision of law, subsequent to such notification, the Department of Motor Vehicles shall allow access to its record of such convictions only to the subject of the record and to insurers which have been granted requester code numbers by the department. Any insurer to which such a record of conviction is disclosed, when such a conviction record has otherwise been sealed under this section, shall be given notice of the sealing when the record is disclosed to the insurer. The insurer may use the information contained in the record for purposes of determining eligibility for insurance and insurance rates for the subject of the record, and the information shall not be used for any other purpose nor shall it be disclosed by an insurer to any person or party not having access to the record.

(2) This subdivision shall not be construed as preventing the sealing of any record which is maintained by any agency or party other than the Department of Motor Vehicles.

(3) This subdivision shall not be construed as affecting the procedures or authority of the Department of Motor Vehicles for purging department records.

SEC. 3. Section 826 of the Welfare and Institutions Code is repealed.

SEC. 4. Section 826 is added to the Welfare and Institutions Code, to read:

826. (a) The juvenile court record, which includes all records and papers, any minute book entries, dockets and judgment dockets, for any person who has reached the age of 38, shall be destroyed by order of the court unless for good cause the court determines that the juvenile record shall be retained, or unless the juvenile court record is released to the person who is the subject of the record pursuant to this section. Any person who is the subject of a juvenile court record may by written notice request the juvenile court to release the court record to his or her custody. Wherever possible, the written notice shall include the person's full name, the person's date of birth, and the juvenile court case number. Any juvenile court receiving the written notice shall release the court record to the person who is the subject of the record five years after the jurisdiction of the juvenile court over the person has terminated, unless for good cause the court determines that the record shall be retained. Exhibits shall be destroyed as provided under Sections 1418, 1418.5, and 1419 of the Penal Code. For the purpose of this section "destroy" means destroy or dispose of for the purpose of destruction. The proceedings in any case in which the juvenile court record is destroyed or released to the person who is the subject of the record pursuant to this section shall be deemed never to have occurred, and the person may reply accordingly to any inquiry about the events in the case.

(b) If an individual whose juvenile court record has been destroyed or released under subdivision (a) discovers that any other agency still retains a record, the individual may file a petition with the court requesting that such records be destroyed. The petition will include the name of the agency and the type of record to be destroyed. The court shall order that such records also be destroyed unless for good cause the court determines to the contrary. The court shall send a copy of the order to each agency and each agency shall destroy records in its custody as directed by the order, and shall advise the court of its compliance. The court shall then destroy the copy of the petition, the order, and the notice of compliance from each agency. Thereafter, the proceedings in such case shall be deemed never to have occurred.

(c) Juvenile court records, which include, all records and papers, any minute book entries, dockets and judgment dockets in juvenile traffic matters may be destroyed after five years from the date on which the jurisdiction of the juvenile court over a minor is

terminated. Prior to such destruction the original record may be microfilmed or photocopied. Every such reproduction shall be deemed and considered an original; and a transcript, exemplification or certified copy of any such reproduction shall be deemed and considered a transcript, exemplification or certified copy, as the case may be, of the original.

SEC. 5. Section 826.5 of the Welfare and Institutions Code is repealed.

SEC. 6. Section 826.5 is added to the Welfare and Institutions Code, to read:

826.5. (a) Notwithstanding the provisions of Section 826, at any time before a person reaches the age of 38, the judge or clerk of the juvenile court or the probation officer may destroy all records and papers, the juvenile court record, any minute book entries, dockets, and judgment dockets in the proceedings concerning the person as a minor if the records and papers, juvenile court record, any minute book entries, dockets, and judgment dockets are microfilmed or photocopied prior to destruction. Exhibits shall be destroyed as provided under Sections 1418, 1418.5, and 1419 of the Penal Code.

(b) Every reproduction shall be deemed and considered an original. A transcript, exemplification, or certified copy of any reproduction shall be deemed and considered a transcript, exemplification, or certified copy, as the case may be, of the original.

SEC. 7. Section 826.6 is added to the Welfare and Institutions Code, to read:

826.6. (a) Any minor who is the subject of a petition that has been filed in juvenile court to adjudge the minor a dependent child or a ward of the court shall be given written notice by the clerk of the court upon disposition of the petition or the termination of jurisdiction of the juvenile court of all of the following:

(1) The statutory right of any person who has been the subject of juvenile court proceedings to petition for sealing of the case records.

(2) The statutory provisions regarding the destruction of juvenile court records and records of juvenile court proceedings retained by state or local agencies.

(3) The statutory right of any person who has been the subject of juvenile court proceedings to have his or her juvenile court record released to him or her in lieu of its destruction.

(4) The statutory requirement regarding the destruction of juvenile court records and other agency records for any person who has been found to be a person described in Section 602 by reason of the violation of an offense enumerated in subdivision (b) of Section 707.

(b) In any juvenile case where a local welfare department, probation department, or district attorney is responsible for notifying the minor of the dismissal, release, or termination of the case, the agency shall provide written notice to the minor of the information specified in subdivision (a) upon the dismissal, release, or termination of the case.

(c) A written form providing the information described in this section shall be prepared by the clerk of the court and shall be made available to juvenile court clerks, probation departments, welfare departments, and district attorneys.

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.

SEC. 9. It is the intent of the Legislature, if this bill and Senate Bill 1796 are both chaptered and become effective January 1, 1981, both bills amend Section 781 of the Welfare and Institutions Code, and this bill is chaptered after Senate Bill 1796, that the amendments to Section 781 proposed by both bills be given effect and incorporated in Section 781 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 1796 are both chaptered and become effective January 1, 1981, both amend Section 781, and this bill is chaptered after Senate Bill 1796, in which case Section 2 of this act shall not become operative.

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## CHAPTER 1105

An act to amend Sections 11004.5, 11010, and 11018.2 of, and to add Sections 11010.3 and 11010.4 to, the Business and Professions Code, relating to subdivision of land.

[Approved by Governor September 25, 1980 Filed with  
Secretary of State September 26, 1980 ]

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

SECTION 1. 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 of this code, containing five or more lots.

(b) Any community apartment project, as defined by Section 11004 of this code, containing five or more apartments.

(c) Any condominium project containing five or more condominiums as defined in Section 783 of the Civil Code.

(d) Any stock cooperative as defined in Section 11003.2 of this code, including any legal or beneficial interests therein, having or intended to have five 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 this section 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 of this code created in connection with any of the forms of the development referred to in this section.

SEC. 2. Section 11010 of the Business and Professions Code is amended to read:

11010. Except as provided in this chapter, any person who intends to offer subdivided lands for sale or lease shall notify the Department of Real Estate in writing of such intention.

The notice of intention shall contain the following information:

- (a) The name and address of the owner.
- (b) The name and address of the subdivider.
- (c) The legal description and area of lands.
- (d) A true statement of the condition of the title to the land, particularly including all encumbrances thereon.
- (e) A true statement of the terms and conditions on which it is intended to dispose of the land, together with copies of any contracts intended to be used.
- (f) A true statement of the provisions, if any, that have been made for public utilities in the proposed subdivision, including water, electricity, gas, telephone, and sewerage facilities.
- (g) A true statement of the use or uses for which the proposed subdivision will be offered.
- (h) A true statement of the provisions, if any, limiting the use or occupancy of the parcels in the subdivision.
- (i) A true statement of the amount of indebtedness which is a lien upon the subdivision or any part thereof, and which was incurred to pay for the construction of any onsite or offsite improvement, or any community or recreational facility.

(j) A true statement or reasonable estimate, if applicable, of the amount of any indebtedness which has been or is proposed to be incurred by an existing or proposed special district, entity, taxing area or assessment district, within the boundaries of which, the subdivision, or any part thereof, is located, and which is to pay for the construction or installation of any improvement or to furnish

community or recreational facilities to such subdivision, and which amounts are to be obtained by ad valorem tax or assessment, or by a special assessment or tax upon the subdivision, or any part thereof.

(k) The location of all existing airports, and of all proposed airports shown on the general plan of any city or county, located within two statute miles of the subdivision.

(l) A true statement of whether or not fill is used, or is proposed to be used in the subdivision and a statement giving the name and the location of the public agency where information concerning soil conditions in the subdivision is available.

(m) A true statement, if applicable, referencing any soils or geologic report or soils and geologic reports that have been prepared specifically for the subdivision.

(n) Such other information as the owner, his agent, or subdivider, may desire to present.

SEC. 3. Section 11010.3 is added to the Business and Professions Code, to read:

11010.3. The notice of intention specified in Section 11010 shall not be required for a proposed sale or lease of expressly zoned industrial subdivisions which are limited in use to industrial purposes and expressly zoned commercial subdivisions which are limited in use to commercial purposes.

SEC. 4. Section 11010.4 is added to the Business and Professions Code, to read:

11010.4. The notice of intention specified in Section 11010 shall not be required for a proposed offering of subdivided land which satisfies all of the following criteria:

(a) The subdivided land is not a subdivision as defined in Section 11000.1, 11000.5, or 11004.5.

(b) Each lot, parcel or unit of the subdivided land is located entirely within the boundaries of a city.

(c) Each lot, parcel or unit of the subdivided land will be sold or offered for sale improved with a completed residential structure and with all other improvements completed that are necessary to occupancy or with financial arrangements determined to be adequate by the city or county to assure completion of such improvements.

(d) The owner or subdivider has complied with Sections 11013.1, 11013.2, and 11013.4, if applicable.

SEC. 5. Section 11018.2 of the Business and Professions Code is amended to read:

11018.2. No person shall sell or lease, or offer for sale or lease in this state any lots or parcels in a subdivision without first obtaining a public report from the Real Estate Commissioner. This section shall not apply to subdivisions for which a notice of intention to sell or lease is not required under the provisions of this chapter.

## CHAPTER 1106

An act to amend Section 2238 of, and to repeal and add Section 2253.8 of, the Revenue and Taxation Code, relating to state reimbursements.

[Approved by Governor September 25, 1980 Filed with  
Secretary of State September 26, 1980 ]

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

SECTION 1. Section 2238 of the Revenue and Taxation Code is amended to read:

2238. (a) If a local agency or school district submits an otherwise valid claim to the Controller after the deadline specified in paragraph (2) of subdivision (d) of Section 2231, the Controller shall pay such claim in an amount equal to 80 percent of the amount which would have been allowed had the claim been timely filed. In no case shall a claim be paid which is submitted more than one year after the deadline specified in paragraph (2) of subdivision (d) of Section 2231. Claims which were filed by the deadline specified in paragraph (2) of subdivision (d) of such section shall be paid in full before payments are made on claims filed after the deadline. In the event the amount appropriated to the Controller for reimbursement purposes is not sufficient to pay such claims approved by the Controller, the Controller shall prorate such claims in proportion to the dollar amount of approved claims filed after the deadline and shall report to the State Board of Control or the Legislature in the same manner as described in Section 2236 in order to assure appropriation of funds sufficient to pay such claims.

(b) Notwithstanding the provisions of subdivision (a), any otherwise valid claim filed with the Controller's office on or before October 31, 1979, for costs incurred in the 1977-78 and prior fiscal years, shall be considered under this section and shall be paid at 80 percent or the lesser prorated amount after payment of the timely filed claims.

SEC. 2. Section 2253.8 of the Revenue and Taxation Code is repealed.

SEC. 3. Section 2253.8 is added to the Revenue and Taxation Code, to read:

2253.8. Claims filed pursuant to parameters and guidelines issued by the Board of Control shall be presented to the board no later than one year after the date of adoption of such parameters and guidelines. The fiscal years which may be claimed shall be prescribed in the parameters and guidelines.

The period prescribed in the parameters and guidelines shall not provide for reimbursement of costs incurred in fiscal years preceding the eligibility date established by the date of submission of the first or "test" claim on a specified statute or executive order. The "test"

claim shall be submitted on or before October 31 following a fiscal year in order to establish eligibility for that fiscal year.

All fiscal years subsequent to those prescribed in the parameters and guidelines shall be submitted no later than one year after the deadline specified in paragraph (2) of subdivision (d) of Section 2231.

SEC. 4. It is the intent of the Legislature, if this bill and Senate Bill No. 90 are both chaptered, this bill shall not become operative.

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## CHAPTER 1107

An act to amend Section 7601 of the Business and Professions Code, relating to State Board of Funeral Directors and Embalmers.

[Approved by Governor September 25, 1980 Filed with  
Secretary of State September 26, 1980 ]

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

SECTION 1. Section 7601 of the Business and Professions Code is amended to read:

7601. There is in the Department of Consumer Affairs a State Board of Funeral Directors and Embalmers which consists of nine members appointed by the Governor, four of whom shall be licentiates of the board, and five of whom shall be public members.

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## CHAPTER 1108

An act to amend Section 2932 of the Penal Code, relating to prisoners.

[Approved by Governor September 25, 1980 Filed with  
Secretary of State September 26, 1980 ]

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

SECTION 1. Section 2932 of the Penal Code is amended to read:

2932. (a) Not more than 90 days of good behavior credit nor more than 30 days of participation credit may be denied or lost during any eight-month period during which the misbehavior or failure to participate took place. Good behavior and participation credit shall be deemed to be earned in cases where the department fails to adhere to the time limitations of this section except as specified in subdivision (c). Any procedure not provided for by this section, but necessary to carry out the purposes of this section, shall be those procedures provided for by the Department of Corrections for serious disciplinary infractions if those procedures are not in

conflict with this section.

(1) The Department of Corrections shall, using reasonable diligence to investigate, provide written notice to the prisoner. The written notice shall be given within five days after the discovery of information leading to charges that may result in a possible denial of good behavior or participation credit, but not later than 30 days after the alleged misbehavior took place, unless the evidence was not reasonably discoverable. The written notice shall include the specific charge, the date, the time, the place that the alleged misbehavior took place, the evidence relied upon, a written explanation of the procedures that will be employed at the proceedings and the prisoner's rights at such hearing, and in the case where the prisoner has been notified more than 30 days after the alleged misbehavior why the evidence was not reasonably discoverable within the 30 days or any sooner than it was discovered. Such hearing shall be conducted by an individual who shall be independent of the case and shall take place within 10 days of such written notice; unless for good cause shown by the Department of Corrections that extraordinary circumstances prevented the hearing from being conducted within 10 days and the prisoner is not prejudiced by the delay the Department of Corrections shall notify the prisoner in writing specifying the extraordinary circumstances and shall conduct the hearing as soon as possible but in no case later than 30 days after the initial written notice of possible good behavior or participation credit denial.

(2) The prisoner has the right to elect to be assigned an investigative employee who will gather information, talk to witnesses, prepare a written report and be present at the hearing.

(3) The prisoner may request witnesses to attend the hearing and they shall be called unless the person conducting the hearing has specific reasons to deny this request. Such specific reasons shall be set forth in writing and a copy of such document shall be presented to the prisoner.

(4) The person who will conduct the hearing shall determine if the prisoner shall need assistance with presentation of a defense at the hearing and if so, at the prisoner's discretion, the prisoner has the right to be assigned an employee of the Department of Corrections to assist in presenting the prisoner's defense.

(5) The prisoner has the right, under the direction of the person conducting the hearing, to question all witnesses.

(6) At the conclusion of the hearing the charge shall be dismissed if the facts do not support the charge, or the inmate may be found guilty on the basis of a preponderance of the evidence.

(7) If found guilty the prisoner shall be advised within 10 days in writing of the guilty finding and the specific evidence relied upon to reach this conclusion and the amount of good-time loss. The prisoner may appeal such decision through the Department of Corrections review procedure, and may, upon final notification of appeal denial, within 10 days of such notification demand review of the

department's denial of credit to the Board of Prison Terms, and the board may affirm, reverse, or modify the department's decision or grant a hearing before the board at which hearing the inmate will have the rights specified in Section 3041.5.

(b) Within 30 days of reception in prison, each prisoner shall be notified of the total amount of good behavior and participation credit which may be credited to his term and his anticipated good-time release date and shall be notified of any change in the anticipated release date.

(c) If the conduct the prisoner is charged with also constitutes a crime, the Department of Corrections may refer the case to criminal authorities for possible prosecution and notify the prisoner as provided in subdivision (a). The prisoner may request postponement of the disciplinary proceedings pending such referral, in which case the time limitations specified in subdivision (a) shall not apply.

The prisoner may revoke his request for postponement of the disciplinary proceedings up until the filing of the accusatory pleading. In the event of the revocation of the request for postponement of the proceeding, the department shall hold the hearing within 15 days of the revocation.

In the case where the prisoner is prosecuted by the district attorney, the Department of Corrections shall not deny good behavior credit where the prisoner is found not guilty and may deny good behavior credit pursuant to the schedule specified in Section 2931 if the prisoner is found guilty.

(d) If good behavior or participation credit denial proceedings, or criminal prosecution prohibit the release of a prisoner who would have otherwise been released, and the prisoner is found not guilty of the alleged misconduct, the amount of time spent incarcerated, in excess of what the period of incarceration would have been absent the alleged misbehavior, shall be deducted from the prisoner's parole period.

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## CHAPTER 1109

An act relating to a wetland restoration and waste water treatment demonstration project in Humboldt County, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1980 Filed with  
Secretary of State September 26, 1980 ]

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

SECTION 1. (a) The Legislature finds and declares that the wetland policies contained in Division 20 (commencing with Section 30000) of the Public Resources Code are critical to the well-being of

the people of this state and hereby reaffirms those policies.

(b) The Legislature further finds and declares that it is desirable to provide a mechanism whereby a demonstration project to improve water quality, while at the same time ensuring restoration and enhancement of habitat values of a substantial wetland area, may be carried out under applicable state laws, in order to provide significant public benefits and technical information that can be useful to the state in evaluating the potential for projects that combine wetland restoration and enhancement with a waste water treatment project. The provisions of this act are intended to provide for such a demonstration project in the Humboldt Bay area and are not intended to establish state policy or precedent for the use of wetlands for any uses not specified in Division 20 (commencing with Section 30000) of the Public Resources Code.

SEC. 2. Notwithstanding the limitation of uses specified in subdivision (a) of Section 30233 of the Public Resources Code, the regional coastal commission, the California Coastal Commission on appeal, or the California Coastal Commission where there is no regional coastal commission, may approve a wetland restoration and waste water treatment demonstration project in Humboldt County within an area bounded by U.S. Highway 101 on the east, the Elk River on the south and west, and the southern edge of the community of Bucksport on the north, provided all of the following conditions have been met:

(a) The project has been found by the regional commission or the commission on appeal to be consistent with the policies and requirements of Division 20 (commencing with Section 30000) of the Public Resources Code, including Section 30233 of the Public Resources Code, except for the limitation of uses specified in subdivision (a) of Section 30233.

(b) Prior to the approval of a coastal development permit for such demonstration project, the Department of Fish and Game has, pursuant to Section 3 of this act, prepared a wetland and habitat restoration and enhancement plan for the management of the areas set aside for habitat protection which plan has been approved by the California Coastal Commission.

(c) The project applicant agrees to carry out the plan required by Section 3.

(d) Any allowable fill for site design, plant location, or any related facilities shall be the minimal necessary to achieve the purposes of the project and shall minimize the harmful effects of the project on Humboldt Bay and its environment.

(e) The State Water Resources Control Board and the North Coast Regional Water Quality Control Board shall determine that the project complies with the policies and requirements of Division 7 (commencing with Section 13000) of the Water Code.

SEC. 3. The Department of Fish and Game, after consultation with the California Coastal Commission, the State Coastal Conservancy, the State Water Resources Control Board, the North

Coast Regional Water Quality Control Board, and the City of Eureka, shall prepare a wetland and habitat restoration and management plan whereby wastewater treatment and discharge can be combined with the use of reclaimed waste water for wetland and habitat enhancement. The plan shall include, but not be limited to the following:

(a) A program to use reclaimed treated waste water to enhance wetland habitats.

(b) A program to restore other habitats, including dunes and wetlands.

(c) A program for management of these areas, to be carried out by the City of Eureka under the direction of the Department of Fish and Game, which maximizes wildlife habitat benefits, while optimizing waste water treatment and discharge consistent with state and federal clean water laws.

(d) A program for public access and recreational use of the habitat area, consistent with the management program identified above.

(e) A program for periodic review and monitoring of the operation of the habitat area, including, when necessary, surveys of plants and animals in the area. The Department of Fish and Game and the California Coastal Commission shall monitor the implementation of the plan required by this section. The California Coastal Commission shall, no later than January 1, 1985, prepare a report to the Legislature which describes the results of the demonstration project.

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:

Waste water from the City of Eureka is currently being discharged directly into Humboldt Bay resulting in adverse environmental impacts. It is necessary to proceed with the demonstration project provided for in this act as soon as possible in order to terminate such direct discharges, to reduce public costs, and to provide technical data and information relative to the feasibility of combining a waste water treatment project with restoration and habitat enhancement. Accordingly, it is necessary that this act take effect immediately.

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## CHAPTER 1110

An act to repeal Sections 51852.5 and 51853.5 of, and to repeal and add Section 51853 of, the Health and Safety Code, relating to housing, and making an appropriation therefor.

[Approved by Governor September 25, 1980 Filed with  
Secretary of State September 26, 1980.]

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

SECTION 1. Section 51852.5 of the Health and Safety Code is repealed.

SEC. 2. Section 51853 of the Health and Safety Code is repealed.

SEC. 3. Section 51853 is added to the Health and Safety Code, to read:

51853. The agency may provide insurance pursuant to this part for loans for housing developments and residential structures which will be occupied primarily by persons and families of low or moderate income.

SEC. 4. Section 51853.5 of the Health and Safety Code is repealed.

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## CHAPTER 1111

An act to amend Section 3068 of, to add Sections 3067.1 and 3068.1 to, to repeal Sections 3071.3 and 3072.2 of, and to repeal and add Sections 3070, 3071, 3072, 3073, 3074, and 3075 of, the Civil Code, and to amend Section 22851 of, to amend and renumber Sections 22700, 22701, 22702, 22705, and 22706 of, to repeal Sections 22704, 22705.1, and 22707 of, to add Sections 22670, 22851.4, 22851.6, 22851.8, 22851.10, 22851.12, and 22852.5 to, to amend and renumber the heading of Article 3 (commencing with Section 22850) of, and to repeal the heading of Article 2 (commencing with Section 22700) of, Chapter 10 of Division 11 of, the Vehicle Code, relating to liens.

[Approved by Governor September 25, 1980. Filed with  
Secretary of State September 26, 1980.]

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

SECTION 1. Section 3067.1 is added to the Civil Code, to read:  
3067.1. All forms required pursuant to the provisions of this chapter shall be prescribed by the Department of Motor Vehicles. The language used in the notices and declarations shall be simple and nontechnical.

SEC. 2. Section 3068 of the Civil Code is amended to read:

3068. (a) Every person has a lien dependent upon possession for the compensation to which he is legally entitled for making repairs or performing labor upon, and furnishing supplies or materials for, and for the storage, repair, or safekeeping of, and for the rental of parking space for, any vehicle of a type subject to registration under the Vehicle Code, subject to the limitations set forth in this chapter. The lien shall be deemed to arise at the time a written statement of charges for completed work or services is presented to the registered owner.

(b) Any lien under this section which arises because work or services have been performed on a vehicle with the consent of the registered owner shall be extinguished and no lien sale shall be conducted unless either of the following occurs:

(1) The lienholder applies for an authorization to conduct a lien sale within 30 days after the lien has arisen.

(2) An action in court is filed within 30 days after the lien has arisen.

(c) That portion of the lien in excess of five hundred dollars (\$500) for any work or services, or that amount in excess of four hundred dollars (\$400) for any storage, safekeeping, or rental of parking space or, if an application for an authorization to conduct a lien sale has been filed pursuant to Section 3071 within 30 days after the commencement of the storage or safekeeping, in excess of five hundred dollars (\$500) for any storage or safekeeping, rendered or performed at the request of any person other than the holder of the legal title, is invalid, unless prior to commencing any such work, services, storage, safekeeping, or rental of parking space, the person claiming the lien gives actual notice in writing either by personal service or by registered letter addressed to the legal owner named in the registration certificate, and the consent of the holder of the legal title is obtained before any such work, services, storage, safekeeping, or rental of parking space are performed. If any portion of a lien includes charges for the care, storage, or safekeeping of, or for the rental of parking space for, a vehicle for a period in excess of 60 days, the portion of the lien which accrued after the expiration of such period is invalid unless the provisions of Sections 10650 and 10652 of the Vehicle Code have been complied with by the holder of the lien.

SEC. 3. Section 3068.1 is added to the Civil Code, to read:

3068.1. (a) Every person has a lien dependent upon possession for the compensation to which the person is legally entitled for towing or storage of any vehicle subject to registration which has been authorized to be removed by a public agency. The lien is deemed to arise on the date of possession of the vehicle.

(b) If the vehicle has been determined to have a value of over one hundred dollars (\$100) pursuant to Section 22670 of the Vehicle Code, but not exceeding three hundred dollars (\$300), the lien shall be satisfied pursuant to Section 3072. Lien-sale proceedings pursuant to the provisions of this chapter shall commence within 15 days of the date the lien arises. No storage shall accrue beyond the 15-day period unless lien-sale proceedings have commenced.

(c) If the vehicle has been determined to have a value exceeding three hundred dollars (\$300) pursuant to Section 22670 of the Vehicle Code, the lien shall be satisfied pursuant to Section 3071. The storage lien may be for a period not exceeding 60 days or, if an application for an authorization to conduct a lien-sale has been filed pursuant to Section 3071 within 30 days after the lien arises, a period not exceeding 120 days.

SEC. 4. Section 3070 of the Civil Code is repealed.

SEC. 5. Section 3070 is added to the Civil Code, to read:

3070. (a) Whenever the possessory lien upon any vehicle is lost through trick, fraud, or device, the repossession of the vehicle by the lienholder revives the possessory lien but any lien so revived is subordinate to any right, title, or interest of any person under any sale, transfer, encumbrance, lien, or other interest acquired or secured in good faith and for value between the time of the loss of possession and the time of repossession.

(b) It is a misdemeanor for any person to obtain possession of any vehicle or any part thereof subject to a lien pursuant to the provisions of this chapter by trick, fraud, or device.

(c) It is a misdemeanor for any person claiming a lien on a vehicle to knowingly violate any provisions of this chapter.

SEC. 6. Section 3071 of the Civil Code is repealed.

SEC. 7. Section 3071 is added to the Civil Code, to read:

3071. (a) A lienholder shall apply to the department for the issuance of an authorization to conduct a lien sale pursuant to the provisions of this section for any vehicle with a value determined to be over three hundred dollars (\$300). A filing fee shall be charged by the department and may be recovered by the lienholder if a lien sale is conducted or if the vehicle is redeemed. The application shall be executed under penalty of perjury and shall include all of the following information:

(1) A description of the vehicle, including make, year model, identification number, license number, and state of registration. For motorcycles, the engine number shall also be included.

(2) The names and addresses of the registered and legal owners of the vehicle, if ascertainable from the registration certificates within the vehicle, and the name and address of any person whom the lienholder knows or reasonably should know claims an interest in the vehicle.

(3) A statement of the amount of the lien and the facts which give rise to the lien.

(b) Upon receipt of an application made pursuant to subdivision (a), the department shall do all of the following:

(1) Notify the vehicle registry agency of a foreign state of the pending lien sale, if the vehicle bears indicia of registration in such state.

(2) By certified mail, send a notice, a copy of the application, and a return envelope preaddressed to the department to the registered and legal owners at their addresses of record with the department, and to any other person whose name and address is listed in the application.

(c) The notice required pursuant to subdivision (b) shall include all of the following statements and information:

(1) An application has been made with the department for authorization to conduct a lien sale.

(2) The person has a right to a hearing in court.

(3) If such hearing in court is desired, a Declaration of Opposition form, signed under penalty of perjury, must be signed and returned to the department within 15 days of the date that the notice required pursuant to subdivision (b) was mailed.

(4) If the Declaration of Opposition form is signed and returned to the department, the lienholder will be allowed to sell the vehicle only if he or she obtains a court judgment or if he or she obtains a subsequent release from the declarant.

(5) If a court action is filed, the declarant will be notified of the lawsuit at the address shown on the Declaration of Opposition form and may appear to contest the claim.

(6) The person may be liable for court costs if a judgment is entered in favor of the lienholder.

(d) If the department receives the Declaration of Opposition form in the time provided, the department shall notify the lienholder within 16 days of the receipt of the form that a lien sale shall not be conducted unless the lienholder files an action in court within 20 days of such notice. A lien sale of the vehicle shall not be conducted unless judgment is subsequently entered in favor of the lienholder or the declarant subsequently releases his or her interest in the vehicle.

(e) Service on the declarant by certified mail with return receipt requested, signed by the declarant or an authorized agent of the declarant at the address shown on the Declaration of Opposition form, shall be effective. If the lienholder has served the declarant by certified mail at the address shown on the Declaration of Opposition form and the mail has been returned unclaimed, the Department of Motor Vehicles may authorize the sale.

(f) Upon receipt of authorization to conduct the lien sale from the department, the lienholder shall do all of the following:

(1) At least 10 days, but not more than 20 days, prior to the lien sale, not counting the day of the sale, give notice of the sale by advertising once in a newspaper of general circulation published in the county in which the vehicle is located. If there is no newspaper published in the county, notice shall be given by posting a Notice of Sale form in three of the most public places in the town in which the vehicle is located and at the place where the vehicle is to be sold for 10 consecutive days prior to and including the day of the sale.

(2) Send a Notice of Pending Lien Sale form 20 days prior to the sale but not counting the day of sale, by certified mail with return receipt requested, to each of the following:

(A) The registered and legal owners of the vehicle, if registered in this state.

(B) All persons known to have an interest in the vehicle.

(C) The Department of Motor Vehicles.

(g) All notices required by this section, including the notice forms prescribed by the department, shall specify the make, year model, vehicle identification number, license number, and state of registration, if available, and the specific date, exact time, and place of sale. For motorcycles, the engine number shall also be included.

(h) No lien sale shall be undertaken pursuant to this section unless the vehicle has been available for inspection at a location easily accessible to the public for at least one hour before the sale and is at the place of sale at the time and date specified on the notice of sale. Sealed bids shall not be accepted. The lienholder shall conduct the sale in a commercially reasonable manner.

(i) Within 10 days after the sale of any vehicle pursuant to the provisions of this section, the legal or registered owner may redeem such vehicle upon the payment of the amount of the sale, all costs and expenses of the sale, together with interest on such sum at the rate of 12 percent per annum from the due date thereof or the date when the same were advanced until the repayment. If the vehicle is not redeemed, all lien sale documents required by the Department of Motor Vehicles shall then be completed and delivered to the buyer.

SEC. 8. Section 3071.3 of the Civil Code is repealed.

SEC. 9. Section 3072 of the Civil Code is repealed.

SEC. 10. Section 3072 is added to the Civil Code, to read:

3072. (a) For vehicles with a value determined to be three hundred dollars (\$300) or less, the lienholder shall apply to the department for the names and addresses of the registered and legal owners of record.

(b) The lienholder shall, immediately upon receipt of the names and addresses, send, by certified mail with return receipt requested or by United States Postal Service Certificate of Mailing, a completed Notice of Pending Lien Sale form, a blank Declaration of Opposition form, and a return envelope preaddressed to the Department of Motor Vehicles, to the registered owner and legal owner at their addresses of record with the Department of Motor Vehicles, and to any other person known to have an interest in the vehicle.

(c) All notices to persons having an interest in the vehicle shall be signed under penalty of perjury and shall include all of the following information and statements:

(1) A description of the vehicle, including make, year model, identification number, license number, and state of registration. For motorcycles, the engine number shall also be included.

(2) The specific date, exact time, and place of sale, which shall be set not less than 31 days, but not more than 35 days, from the date of mailing.

(3) The names and addresses of the registered and legal owners of the vehicle and any other person known to have an interest in the vehicle.

(4) All of the following statements:

(A) The amount of the lien and the facts concerning the claim which gives rise to the lien.

(B) The person has a right to a hearing in court.

(C) If a court hearing is desired, a Declaration of Opposition form, signed under penalty of perjury, must be signed and returned to the Department of Motor Vehicles within 15 days of the date the Notice of Pending Lien Sale form was mailed.

(D) If the Declaration of Opposition form is signed and returned, the lienholder will be allowed to sell the vehicle only if he or she obtains a court judgment or if he or she obtains a subsequent release from the declarant.

(E) If a court action is filed, the declarant will be notified of the lawsuit at the address shown on the Declaration of Opposition form and may appear to contest the claim.

(F) The person may be liable for court costs if a judgment is entered in favor of the lienholder.

(d) If the department receives the completed Declaration of Opposition form within the time provided, the department shall notify the lienholder within 16 days that a lien sale shall not be conducted unless the lienholder files an action in court within 20 days of such notice and judgment is subsequently entered in favor of the lienholder or the declarant subsequently releases his interest in the vehicle.

(e) Service on the declarant by certified mail with return receipt requested, signed by the declarant or an authorized agent of the declarant at the address shown on the Declaration of Opposition form, shall be effective. If the lienholder has served the declarant by certified mail at the address shown on the Declaration of Opposition form and the mail has been returned unclaimed, the lienholder may proceed with the sale.

(f) At least 10 consecutive days prior to and including the day of the sale, the lienholder shall post a Notice of Pending Lien Sale form in a conspicuous place on the premises where the vehicle is stored and at the business office of the lienholder. The Notice of Pending Lien Sale form shall state the specific date and exact time of the sale and description of the vehicle, including the make, year model, identification number, license number, and state of registration. For motorcycles, the engine number shall also be included. The notice of sale shall remain posted until the sale is completed.

(g) No lien sale shall be undertaken pursuant to this section unless the vehicle has been available for inspection at a location easily accessible to the public at least one hour before the sale and is at the place of sale at the time and date specified on the notice of sale. Sealed bids shall not be accepted. The lienholder shall conduct the sale in a commercially reasonable manner. All lien sale documents required by the Department of Motor Vehicles shall be completed and delivered to the buyer immediately following the sale.

SEC. 11. Section 3072.2 of the Civil Code is repealed.

SEC. 12. Section 3073 of the Civil Code is repealed.

SEC. 13. Section 3073 is added to the Civil Code, to read:

3073. The proceeds of a vehicle lien sale under this article shall be disposed of as follows:

(a) The amount necessary to discharge the lien and the actual cost of selling the vehicle shall be paid to the lienholder. The cost of selling shall be the actual cost, not to exceed fifty dollars (\$50) for each vehicle.

(b) The balance, if any, shall be forwarded to the Department of Motor Vehicles within 15 days of any sale conducted pursuant to the provisions of Section 3071 or within five days of any sale conducted pursuant to the provisions of Section 3072 and deposited in the Motor Vehicle Account in the State Transportation Fund.

(c) Any person claiming an interest in the vehicle may file a claim with the Department of Motor Vehicles for any portion of the funds from such lien sale which were forwarded to the department pursuant to subdivision (b). Upon determination of the Department of Motor Vehicles that the claimant is entitled to an amount from the balance deposited with the department, the department shall pay that amount determined by the department, which amount shall not exceed the amount forwarded to the department pursuant to subdivision (b) in connection with the sale of the vehicle in which the claimant claims an interest. The department shall not honor any claim unless the claim has been filed within three years of the date such funds were deposited in the Motor Vehicle Account.

SEC. 14. Section 3074 of the Civil Code is repealed.

SEC. 15. Section 3074 is added to the Civil Code, to read:

3074. The lienholder shall be able to recover the actual costs incurred in lien sale preparations, not to exceed fifty dollars (\$50) for each vehicle, from any person who redeems the vehicle prior to a lien sale conducted pursuant to this chapter.

SEC. 16. Section 3075 of the Civil Code is repealed.

SEC. 17. Section 3075 is added to the Civil Code, to read:

3075. The procedures described in this chapter shall not be applicable if the vehicle is a mobilehome as defined in Section 396 of the Vehicle Code. A lien sale of a mobilehome may be conducted only if a judgment has been entered in favor of the lienholder.

SEC. 18. Section 22670 is added to the Vehicle Code, to read:

22670. For lien sale purposes, the public agency causing the removal of the vehicle shall determine if the estimated value of the vehicle that has been ordered removed, towed, or stored is one hundred dollars (\$100) or less, over one hundred dollars (\$100) but three hundred dollars (\$300) or less, or over three hundred dollars (\$300).

SEC. 19. The heading of Article 2 (commencing with Section 22700) of Chapter 10 of Division 11 of the Vehicle Code is repealed.

SEC. 20. Section 22700 of the Vehicle Code is amended and renumbered to read:

22523. (a) No person shall abandon a vehicle upon any highway.

(b) No person shall abandon a vehicle upon public or private property without the express or implied consent of the owner or person in lawful possession or control of the property.

SEC. 21. Section 22701 of the Vehicle Code is amended and renumbered to read:

22524. The abandonment of any vehicle in a manner as provided in Section 22523 shall constitute a prima facie presumption that the last registered owner of record, not having complied with the

provisions of Section 5900, is responsible for such abandonment and is thereby liable for the cost of removal and disposition of the vehicle.

SEC. 22. Section 22702 of the Vehicle Code is amended and renumbered to read:

22669. (a) Any member of the California Highway Patrol or any regularly employed and salaried deputy sheriff or other employee of the county designated to perform this function by the board of supervisors in which a vehicle is located or any regularly employed and salaried police officer or other employee of the city designated to perform this function by the city council, in which a vehicle is located who has reasonable grounds to believe that the vehicle has been abandoned, as determined pursuant to Section 22523, may remove the vehicle from a highway or from public or private property.

(b) Any member of the California State Police who has reasonable grounds to believe that a vehicle has been abandoned, as determined pursuant to Section 22523, upon property owned by the state, or rented or leased from others by the state, or property of a district agricultural association as to which the California State Police is providing policing services, may remove the vehicle from such property.

(c) Any regularly employed and salaried officer or other employee of the University of California Police Department who has reasonable grounds to believe that a vehicle has been abandoned, as determined pursuant to Section 22523, on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Regents of the University of California may remove the vehicle from such property.

(d) Any policeman appointed or employed by the board of directors of a regional park district who has reasonable grounds to believe that a vehicle has been abandoned, as determined pursuant to Section 22523, upon property owned by the regional park district or rented or leased from others by the regional park district, may remove the vehicle from such property.

(e) Any regularly employed and salaried officer or other employee of a California state university or college police department who has reasonable grounds to believe that a vehicle has been abandoned, as determined pursuant to Section 22523, on or about a campus or in or about other grounds or properties owned, operated, controlled, or administered by the Trustees of the California State University and Colleges, may remove the vehicle from such property.

(f) Any person performing a franchise or contract awarded pursuant to subdivision (a) of Section 22710, may remove a vehicle from a highway or place to which it has been removed pursuant to subdivision (c) of Section 22654 or from public or private property, after a determination by a member of the California Highway Patrol or any regularly employed and salaried deputy or other employee of the sheriff's office of a county in which such vehicle is located or any

regularly employed and salaried officer or other employee of a police department in a city in which such vehicle is located that such vehicle is abandoned, as determined pursuant to Section 22523.

(g) Any regularly employed and salaried officer of a transit district security force who has reasonable grounds to believe that a vehicle has been abandoned, as determined pursuant to Section 22523, on property owned by the transit district or rented or leased from others by the transit district, may remove the vehicle from such property.

(h) Any peace officer appointed or employed by the Department of Parks and Recreation who has reasonable grounds to believe that a vehicle has been abandoned, as determined pursuant to Section 22523, on or about property owned, operated, controlled, or administered by the Department of Parks and Recreation, may remove the vehicle from such property.

(i) A county or city employee, other than an employee of a sheriff's department or a city police department, designated to remove vehicles pursuant to this section may do so only after he or she has mailed or personally delivered a written report identifying the vehicle and its location to the office of the Department of the California Highway Patrol located nearest to the vehicle.

SEC. 23. Section 22704 of the Vehicle Code is repealed.

SEC. 24. Section 22705 of the Vehicle Code is amended and renumbered to read:

22851.2. (a) If the vehicle is determined to have a value not exceeding one hundred dollars (\$100) pursuant to Section 22670, the public agency which removed the vehicle shall do all of the following:

(1) Within 48 hours after removal of the vehicle, notify the Department of Justice in Sacramento of such removal.

(2) Prepare and give to the lienholder a report which shall include all of the following:

(A) The value of the vehicle estimated pursuant to Section 22670.

(B) The identification of the estimator.

(C) The location of the vehicle.

(D) A description of the vehicle, including the make, year model, identification number, license number, state of registration, and, if a motorcycle, an engine number.

(E) The statutory authority for storage.

(b) If the vehicle is in such condition that there is no means of determining ownership, the public agency which removed the vehicle may give authorization to dispose of the vehicle. If no authorization for disposal is issued, a vehicle identification number must be assigned prior to commencing the lien sale proceedings.

SEC. 25. Section 22705.1 of the Vehicle Code is repealed.

SEC. 26. Section 22706 of the Vehicle Code is amended and renumbered to read:

22671. A local authority may either issue a franchise or execute a contract for the removal of abandoned vehicles in accordance with

the provisions of this chapter.

SEC. 27. Section 22707 of the Vehicle Code is repealed.

SEC. 28. The heading of Article 3 (commencing with Section 22850) of Chapter 10 of Division 11 is amended and renumbered to read:

## Article 2. Vehicle Disposition

SEC. 29. Section 22851 of the Vehicle Code is amended to read:

22851. (a) Whenever a vehicle has been removed to a garage under the provisions of this chapter and the keeper of the garage has received the notice or notices as provided herein, the keeper shall have a lien dependent upon possession for his compensation for towage and for caring for and keeping safe such vehicle for a period not exceeding 60 days or, if an application for an authorization to conduct a lien sale has been filed pursuant to Section 3068.1 of the Civil Code within 30 days after the removal of the vehicle to the garage, 120 days and, if the vehicle is not recovered by the owner within such period or the owner is unknown, the keeper of the garage may satisfy his lien in the manner prescribed in this article. The lien shall not be assigned.

(b) No lien shall attach to any personal property in or on the vehicle. Such personal property in or on the vehicle shall be given to the registered owner or such owner's authorized agent upon demand. The lien holder shall not be responsible for property after any vehicle has been disposed of pursuant to this chapter.

SEC. 31. Section 22851.4 is added to the Vehicle Code, to read:

22851.4. If the vehicle is determined to have a value exceeding one hundred dollars (\$100) pursuant to Section 22670 by the public agency, the lien shall be satisfied pursuant to the provisions of Sections 3067 to 3075, inclusive, of the Civil Code.

SEC. 32. Section 22851.6 is added to the Vehicle Code, to read:

22851.6. (a) If the vehicle has a value not exceeding one hundred dollars (\$100) as determined pursuant to Section 22670 by the public agency, the lien shall be satisfied pursuant to Sections 22851.8 and 22851.10.

(b) All forms required by Sections 22851.8 and 22851.10 shall be prescribed by the Department of Motor Vehicles. The language used in the notices and declarations shall be simple and nontechnical.

SEC. 33. Section 22851.8 is added to the Vehicle Code, to read:

22851.8. (a) The lienholders shall, within 15 working days following the date of possession of the vehicle, make a request to the Department of Motor Vehicles for the names and addresses of all persons having an interest in the vehicle. No storage charge shall accrue beyond the 15-day period unless the lienholder has made a request to the Department of Motor Vehicles as provided for in this section.

(b) By certified mail with return receipt requested or by United States Postal Service Certificate of Mailing, the lienholder shall

immediately upon receipt of this information send the following prescribed forms and enclosures to the registered owner and legal owner at their addresses of record with the Department of Motor Vehicles, and to any other person known to have an interest in the vehicle:

(1) A completed form entitled "Notice of Intent to Dispose of a Vehicle Valued at \$100 or Less."

(2) A blank form entitled "Declaration of Opposition."

(3) A return envelope preaddressed to the lienholder.

(c) All notices to persons having an interest in the vehicle shall be signed under penalty of perjury and shall include all of the following:

(1) A description of the vehicle, including make, year model, identification number, license number, and state of registration. For motorcycles, the engine number shall also be included.

(2) The names and addresses of the registered and legal owners of the vehicle and any other person known to have an interest in the vehicle.

(3) The following statements and information:

(A) The amount of the lien.

(B) The facts concerning the claim which gives rise to the lien.

(C) The person has a right to a hearing in court.

(D) If a hearing in court is desired, a Declaration of Opposition form shall be signed under penalty of perjury and returned to the lienholder within 10 days of the date the Notice of Intent to Dispose of a Vehicle Valued at \$100 or Less form was mailed.

(E) If the Declaration of Opposition form is signed and mailed, the lienholder will be allowed to dispose of the vehicle only if the lienholder obtains a court judgment or a subsequent release from the declarant.

(F) If a court action is filed, the declarant will be notified of the lawsuit at the address shown on the Declaration of Opposition form, and the declarant may appear to contest the claim.

(G) The declarant may be liable for court costs if a judgment is entered in favor of the lienholder.

(4) A statement that the lienholder may dispose of the vehicle to a licensed dismantler or scrap iron processor if it is not redeemed or if a Declaration of Opposition form is not signed and mailed to the lienholder within 10 days of the date the Notice of Intent to Dispose of a Vehicle Valued at \$100 or Less form was mailed.

(d) If the lienholder receives a completed Declaration of Opposition form within the time prescribed, the vehicle shall not be disposed of unless the lienholder files an action in court within 20 days of the date the Notice of Intent to Dispose of a Vehicle Valued at \$100 or Less form was mailed and a judgment is subsequently entered in favor of the lienholder or unless the declarant subsequently releases his interest in the vehicle.

(e) Service on the declarant by certified mail, return receipt requested, which receipt is signed by the addressee at the address shown on the Declaration of Opposition form, shall be effective. If

the lienholder has served the declarant by certified mail at the address shown on the Declaration of Opposition form and the mail has been returned unclaimed, the lienholder may proceed with the disposal of the vehicle. The proof of service shall be submitted to the Department of Motor Vehicles with the documents specified in Section 22851.10.

SEC. 34. Section 22851.10 is added to the Vehicle Code, to read:

22851.10. (a) Any vehicle determined to have a value not exceeding one hundred dollars (\$100) pursuant to Section 22670 which was stored pursuant to this chapter, and which remains unclaimed, or for which reasonable towing and storage charges remain unpaid, shall be disposed of only to a licensed dismantler or scrap iron processor not earlier than 15 days after the date the Notice of Intent to Dispose of a Vehicle Valued at \$100 or Less form required pursuant to subdivision (b) of Section 22851.8 was mailed, unless a Declaration of Opposition form has been signed and returned to the lienholder.

(b) If the vehicle has been disposed of to a licensed dismantler or scrap iron processor, the lienholder shall forward the following forms and information to the department within five days:

(1) A statement, signed under penalty of perjury, that a properly executed Declaration of Opposition form was not received.

(2) A copy of the notice sent to all interested parties.

(3) A certification from the public agency which made the determination of value pursuant to Section 22670.

(4) The proof of service pursuant to subdivision (e) of Section 22851.8 or a copy of the court judgment, if any in favor of the lienholder entered pursuant to subdivision (d) of Section 22851.8.

(5) The name, address, and telephone number of the licensed dismantler or scrap iron processor who received the vehicle.

(6) The amount the lienholder received for the vehicle.

SEC. 35. Section 22851.12 is added to the Vehicle Code, to read:

22851.12. The lienholder may recover actual costs incurred in the processing for disposal of any vehicle of a value determined to be one hundred dollars (\$100) or less pursuant to Section 22670, not to exceed fifty dollars (\$50), from any person who redeems the vehicle prior to disposal. These costs may commence when the lienholder requests the names and addresses of all persons having an interest in the vehicle from the Department of Motor Vehicles.

SEC. 36. Section 22852.5 is added to the Vehicle Code, to read:

22852.5. (a) Whenever the possessory lien upon any vehicle is lost through trick, fraud, or device, the repossession of the vehicle by the lienholder revives the possessory lien, but any lien so revived is subordinate to any right, title, or interest of any person under any sale, transfer, encumbrance, lien, or other interest acquired or secured in good faith and for value between the time of the loss of possession and the time of repossession.

(b) It is a misdemeanor for any person to obtain possession of any vehicle or any part thereof subject to a lien pursuant to the provisions

of this chapter by trick, fraud, or device.

(c) It is a misdemeanor for any person claiming a lien on a vehicle to knowingly violate any provision of this chapter.

SEC. 37. 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.

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## CHAPTER 1112

An act to amend Sections 25002, 25163, 25167.3, 25168, 25168.1, 25168.2, 25168.3, 25168.4, 25169.1, and 25201.2 of the Health and Safety Code, and to amend Sections 2560 and 34100 of the Vehicle Code, relating to hazardous waste haulers, and making an appropriation therefor.

[Approved by Governor September 25, 1980. Filed with  
Secretary of State September 26, 1980.]

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

SECTION 1. Section 25002 of the Health and Safety Code is amended to read:

25002. Except as provided in Section 25163, it is unlawful for any person to clean septic tanks, chemical toilets, cesspools or sewage seepage pits or to dispose or aid in the disposal of the cleanings thereof, for any person or firm engaged in the business of cleaning out septic tanks, chemical toilets, cesspools or sewage seepage pits or disposing of the cleanings thereof who does not hold an unrevoked registration as provided in this chapter.

SEC. 1.5. 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.

(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. 1.6. 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. 2. Section 25167.3 of the Health and Safety Code is amended to read:

25167.3. It is the intent of the Legislature that this article preempt all local regulations and all conflicting state regulations concerning the transportation of hazardous waste, including all inspection, licensing, and registration of trucks, trailers, semitrailers, vacuum tanks, cargo tanks, and containers used to transport all types of hazardous wastes. No state agency, city, city and county, county, or other political subdivision of this state, including, but not limited to, a chartered city, city and county, or county, shall adopt or enforce any ordinance or regulation which is inconsistent with the rules and regulations adopted by the State Department of Health Services, the Department of the California Highway Patrol, or the State Fire Marshal pursuant to this article.

SEC. 3. Section 25168 of the Health and Safety Code is amended to read:

25168. No registration shall be granted under this article unless:

(a) The truck, trailer, semitrailer, vacuum tank, cargo tank, or container, excluding containers holding hazardous waste packages pursuant to Federal Department of Transportation requirements, used to transport all types of hazardous wastes, has been inspected and received a certificate of compliance under this article, and

(b) The owner or operator provides documentation indicating that all persons who will operate the truck, trailer, semitrailer, vacuum tank, cargo tank, or container have received training adequate to ensure the safe handling of the hazardous waste to be transported.

SEC. 4. Section 25168.1 of the Health and Safety Code is amended to read:

25168.1. The department shall adopt regulations for containers used to transport hazardous wastes not covered or packaged as required by federal regulations contained in Title 49 of the Code of Federal Regulations. The California Highway Patrol shall conduct an annual inspection of every truck, trailer, semitrailer, vacuum tank, cargo tank, or container used by registered waste haulers to transport hazardous waste on the highways. The inspection shall be designed

to determine if each vehicle complies with regulations adopted by the State Fire Marshal under Section 34020 of the Vehicle Code, by the Highway Patrol under subdivisions (a) and (b) of Section 34501 of the Vehicle Code, and by the State Department of Health Services for containers used to haul hazardous waste. The Department of the California Highway Patrol shall determine whether the construction, design, equipment, and safety features of every such truck, trailer, semitrailer, vacuum tank, cargo tank, or container are in compliance with the standards which the department determines are necessary for the safe transportation of hazardous waste.

SEC. 5. Section 25168.2 of the Health and Safety Code is amended to read:

25168.2. The department may, pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, suspend or revoke the certification of a truck, trailer, semitrailer, vacuum tank, cargo tank, or container used to haul hazardous waste and may revoke the registration of a hazardous waste hauler for any of the following reasons:

(a) Failure of the registrant to pay required fees or misrepresentation upon application for original or renewal registration.

(b) Failure of a truck, trailer, semitrailer, vacuum tank, cargo tank, or container owned or operated by a registrant to comply with regulations adopted under Section 34020, subdivisions (a) and (b) of Section 34501 of the Vehicle Code, and those regulations promulgated by the department for containers used to haul hazardous waste.

(c) Failure or refusal of the registrant to permit inspection of a truck, trailer, semitrailer, vacuum tank, cargo tank, or container or make a truck, trailer, semitrailer, vacuum tank, cargo tank, or container available for inspection by a member of the California Highway Patrol upon reasonable notice.

(d) Failure to possess the minimum insurance, as prescribed in Section 25169.

(e) Violation of any provisions of this division.

SEC. 6. Section 25168.3 of the Health and Safety Code is amended to read:

25168.3. (a) Once a truck, trailer, semitrailer, vacuum tank, cargo tank, or container has been inspected and found to be in compliance with all design, construction, and safety requirements, the department shall issue a sticker, label, or other suitable device constituting a certificate of compliance to identify waste hauling vehicles which have passed inspection. The certificate of compliance shall be plainly affixed to the truck, trailer, semitrailer, vacuum tank, cargo tank, or container. The size, shape, color, and design of the certificate of compliance and the positioning of the certificate shall be determined by the department.

(b) The indicia required by this section shall be incorporated with, or take the place of, any indicia issued pursuant to the

provisions of this article.

SEC. 7. Section 25168.4 of the Health and Safety Code is amended to read:

25168.4. The fee for the annual inspection of a truck, trailer, semitrailer, vacuum tank, cargo tank, or container used to transport hazardous wastes shall be determined by the commissioner of the Department of the California Highway Patrol as provided by Article 6 (commencing with Section 2560) of Chapter 2 of Division 2 of the Vehicle Code.

SEC. 8. Section 25169.1 of the Health and Safety Code is amended to read:

25169.1. (a) The California Highway Patrol shall inspect every truck, trailer, semitrailer, vacuum tank, cargo tank, or container used to transport hazardous waste at least once a year to ascertain whether its construction, design, equipment and safety features comply with the regulations promulgated by the State Department of Health Services pursuant to Section 25168.1.

(b) No person shall transport hazardous waste on streets and highways within the State of California, unless the truck, trailer, semitrailer, vacuum tank, cargo tank, or container in which the hazardous waste is being transported displays a certificate of compliance, issued by the State Department of Health Services, showing that the vehicle has been inspected within the last 12 months.

SEC. 9. Section 25201.2 of the Health and Safety Code is amended to read:

25201.2. Any operator of a treatment facility, waste transfer station, waste storage area, resource recovery facility or waste disposal site or any other person who accepts hazardous waste from a vacuum truck, trailer, semitrailer, or container failing to display a valid certificate of compliance as provided in Section 25168.3, shall report the incident to the State Department of Health Services, as required by the department.

SEC 10. Section 2560 of the Vehicle Code is amended to read:

2560. The commissioner may determine the fee for the annual inspection of trucks, trailers, semitrailers, vacuum tanks, cargo tanks, and containers used to transport hazardous waste. The fee, established by regulation, shall be sufficient to cover the cost to the department of conducting hazardous waste inspections but shall not exceed fifty dollars (\$50).

SEC. 11. Section 34100 of the Vehicle Code is amended to read:

34100. No person shall drive, move, or leave standing any tank vehicle upon any highway unless all cargo tanks on such vehicles have been registered, pursuant to this division, with the State Fire Marshal and the appropriate fees have been paid.

This section does not apply to trucks, trailers, semitrailers, vacuum tanks, cargo tanks, or containers certified pursuant to Section 25169.1 of the Health and Safety Code.

SEC. 12. It is the intent of the Legislature, if this bill and

Assembly Bill 2140 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 Assembly Bill 2140, 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 1.6 of this act. Therefore, Section 1.6 of this act shall become operative only if this bill and Assembly Bill 2140 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 Assembly Bill 2140, in which case Section 1.5 of this act shall not become operative.

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 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.

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## CHAPTER 1113

An act to amend Sections 1785.10, 1785.15, 1785.16, 1785.17 and 1785.20 of the Civil Code, relating to consumer credit reporting agencies.

[Approved by Governor September 25, 1980 Filed with  
Secretary of State September 26, 1980 ]

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

SECTION 1. Section 1785.10 of the Civil Code is amended to read:

1785.10. Every consumer credit reporting agency shall, upon request and proper identification of any consumer, allow the consumer to visually inspect all files maintained regarding such consumer at the time of the request.

Every consumer reporting agency, upon contact by a consumer by phone, mail, or in person regarding information which may be contained in the agency files regarding that consumer, shall promptly advise the consumer of the obligation of the agency to provide disclosure of the files in person, by mail, or by telephone pursuant to Section 1785.15, including the obligation of the agency to provide a decoded written version of the file or a written copy of the file with an explanation of any code used, if the consumer so requests such a copy. The disclosure shall be provided in the manner selected by the consumer.

The agency shall determine the applicability of subdivision (1) of

Section 1785.17 and, where applicable, the agency shall inform the consumer of the rights under that section.

(a) All items of information shall be available for inspection, including the sources of information.

(b) The consumer credit reporting agency shall also disclose the recipients of any consumer credit report on the consumer which the consumer credit reporting agency has furnished:

(1) For employment purposes within the two-year period preceding the request.

(2) For any other purpose within the six-month period preceding the request.

SEC. 2. Section 1785.15 of the Civil Code is amended to read:

1785.15. (a) A consumer credit reporting agency shall supply files and information required under Section 1785.10 during normal business hours and on reasonable notice. In addition to the disclosure provided by this chapter and any disclosures received by the consumer, the consumer has the right to request and receive a decoded written version of the file or a written copy of the file with an explanation of any code used, without charge as subject to subdivision (1) of Section 1785.17.

(b) Files maintained on a consumer shall be disclosed promptly as follows:

(1) In person, if he or she appears in person and furnishes proper identification.

(2) By mail, if the consumer makes a written request with proper identification for a copy of the file or a decoded written version of such file to be sent to the consumer at a specified address. Consumer credit reporting agencies complying with requests for mailings under this section shall not be liable for disclosures to third parties caused by mishandling of mail after such mailings leave the consumer reporting agencies.

(3) A summary of all information contained in files on a consumer and required to be provided by Section 1785.10 shall be provided by telephone, if the consumer has made a written request, with proper identification for telephone disclosure.

(c) The term "proper identification" as used in subdivision (b) shall mean that information generally deemed sufficient to identify a person. Only if the consumer is unable to reasonably identify himself with the information described above, may a consumer credit reporting agency require additional information concerning the consumer's employment and personal or family history in order to verify his identity.

(d) The consumer credit reporting agency shall provide trained personnel to explain to the consumer any information furnished him pursuant to Section 1785.10.

(e) The consumer shall be permitted to be accompanied by one other person of his choosing, who shall furnish reasonable identification. A consumer credit reporting agency may require the consumer to furnish a written statement granting permission to the

consumer credit reporting agency to discuss the consumer's file in such person's presence.

SEC. 3. Section 1785.16 of the Civil Code is amended to read:

1785.16. (a) If the completeness or accuracy of any item of information contained in his file is disputed by a consumer, and such dispute is conveyed directly to the consumer credit reporting agency by the consumer or user on behalf of the consumer, the consumer credit reporting agency shall within a reasonable period of time reinvestigate and record the current status of the disputed information unless it has reasonable grounds to believe that the dispute by the consumer is frivolous or irrelevant. If the consumer credit reporting agency determines that the dispute is frivolous or irrelevant, it shall notify the consumer in writing within five days after such determination is made that it will not reinvestigate the item of information. In this notification, the consumer credit reporting agency shall state the specific reasons why it has determined that the consumer's dispute is frivolous or irrelevant. If a reinvestigation is made and, after reinvestigation, the disputed item of information is found to be missing, inaccurate, or can no longer be verified, the consumer credit reporting agency shall promptly add, correct, or delete such information from the consumer's file and shall notify the consumer that such information has been added, corrected, or deleted.

The notification of the consumer shall include an explanation of the obligation of the agency to provide a decoded written version of the file or a written copy of the file with an explanation of any code used, at no charge to the consumer, should the consumer elect to receive such a disclosure. The presence of information in the consumer's file that contradicts the contention of the consumer shall not, in and of itself, constitute reasonable grounds for believing the dispute is frivolous or irrelevant.

(b) If the consumer credit reporting agency determines that the dispute is frivolous or irrelevant, or if the reinvestigation does not resolve the dispute, the consumer may file a brief statement setting forth the nature of the dispute. The consumer credit reporting agency may limit such statements to not more than 100 words if it provides the consumer with assistance in writing a clear summary of the dispute.

(c) Whenever a statement of dispute is filed, the consumer credit reporting agency shall, in any subsequent consumer credit report containing the information in question, clearly note that the information is disputed by the consumer and shall include in the report either the consumer's statement or a clear and accurate summary thereof.

(d) Following the deletion of information from a consumer's file pursuant to subdivision (a), or following the filing of a dispute pursuant to subdivision (b), the consumer credit reporting agency shall, at the request of the consumer, furnish notification that the item of information has been deleted or that the item of information

is disputed. In the case of disputed information, the notification shall include the statement or summary of the dispute filed pursuant to subdivision (b). Such notification shall be furnished to any person, specifically designated by the consumer, who has, within two years prior to the deletion or the filing of the dispute, received a consumer credit report concerning the consumer for employment purposes, or who has, within six months of the deletion or the filing of the dispute, received a consumer credit report concerning the consumer for any other purpose, if such consumer credit reports contained the deleted or disputed information. The consumer credit reporting agency shall clearly and conspicuously disclose to the consumer his rights to make a request for notification. Such disclosure shall be made at or prior to the time the information is deleted or the consumer's statement regarding the disputed information is received.

SEC. 4. Section 1785.17 of the Civil Code is amended to read:

1785.17. A consumer credit reporting agency shall make all disclosures pursuant to Sections 1785.10 and 1785.15 and furnish all consumer reports pursuant to Section 1785.16 as follows:

(1) Without charge, if requested by the consumer within 30 days after receipt by such consumer of a notification of adverse action pursuant to Section 1785.20 or of a notification from a debt collection agency affiliated with such consumer credit reporting agency stating that the consumer's credit rating may be or has been adversely affected.

(2) In the absence of the circumstances described in subdivision (1), the credit reporting agency may impose a reasonable charge on the consumer for making disclosures to such consumer pursuant to Section 1785.10, 1785.15, or 1785.16, provided, however, that disclosures pursuant to Section 1785.16 shall not be subject to a charge if, after reinvestigation, it is determined that the files contain any items that are inaccurate or are incomplete, or if the consumer elects to receive a decoded written version of the file or a written copy of the file with an explanation of any code used pursuant to subdivision (a) of Section 1785.16.

(3) Any charges shall be indicated to the consumer prior to disclosure and may not cover notification of the deletion of information which is found to be inaccurate or which can no longer be verified.

(4) A reasonable charge for disclosure under this section cannot exceed eight dollars (\$8). A reasonable charge for other services rendered to the consumer shall not exceed those charges made to a user of the consumer credit reporting agency's services.

SEC. 5. Section 1785.20 of the Civil Code is amended to read:

1785.20. (a) Whenever credit or insurance for personal, family, or household purposes, or employment involving a consumer is denied or the charge for such credit or insurance is increased either wholly or partly because of information contained in a consumer credit report from a consumer credit reporting agency, the user of the consumer credit report shall so advise the consumer against

whom such adverse action has been taken and supply the name and address or addresses of the consumer credit reporting agency making the report.

(b) Whenever credit or insurance for personal, family, or household purposes involving a consumer is denied or the charge for such credit is increased either wholly or in part because of information obtained from a person other than a consumer credit reporting agency bearing upon consumer's credit worthiness or credit standing, the user of such information shall, within a reasonable period of time, and upon the consumer's written request for the reasons for such adverse action received within 60 days after learning of such adverse action, disclose the nature and substance of the information to the consumer. The user of such information shall clearly and accurately disclose to the consumer his right to make such written request at the time such adverse action is communicated to the consumer.

(c) No person shall be held liable for any violation of this section if he shows by a preponderance of the evidence that at the time of the alleged violation he maintained reasonable procedures to assure compliance with the provisions of subdivisions (a) and (b) of this section.

(d) Nothing in this chapter shall excuse compliance with the requirements of Section 1787.2.

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## CHAPTER 1114

An act to amend Section 1812 of, to add Sections 1813 and 1814 to, and to repeal Sections 1813 and 1814 of, the Welfare and Institutions Code, relating to youths, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1980 Filed with  
Secretary of State September 26, 1980 ]

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

SECTION 1. Section 1812 of the Welfare and Institutions Code is amended to read:

1812. (a) The receipt of funds under this article shall be contingent upon the county maintaining its funding year commitment rate of juvenile and criminal offenders to the Department of the Youth Authority and the Department of Corrections within a base commitment rate of such commitments, except that no county shall be excluded from funds under this article which does not commit more than three people to the Department of the Youth Authority and the Department of Corrections during the funding year. For purposes of this article, "funding year" is the fiscal year for which the subvention is made.

(b) The Youth Authority shall calculate the base commitment rate for each county by computing the ratio of new commitments by county population, expressed in a commitment rate per 100,000 population for each of the fiscal years 1973-74, 1974-75, 1975-76, and 1976-77. The average of these four rates shall be the base commitment rate for the county. The number of new commitments for each of the above fiscal years shall be the total of the new commitments to the Department of the Youth Authority and to the Department of Corrections, as certified by the respective departments, on the basis provided in Article 7 (commencing with Section 1820) of Chapter 1 of Division 2.5, in effect during such fiscal years, excluding persons within any of the categories listed below:

(1) Persons committed to the Department of the Youth Authority or the Department of Corrections who are subsequently recalled or discharged pursuant to Section 1737 of this code or Section 1168 of the Penal Code.

(2) Persons committed to the Department of the Youth Authority or the Department of Corrections for diagnostic study pursuant to Section 704, 707.2, 1731.6, or 1752.1 of this code or Section 1203.03 of the Penal Code.

(c) The Youth Authority shall calculate the funding year commitment rate for each participating county by computing the ratio of new commitments to county population, expressed in a commitment rate per 100,000 population, for the funding year, excluding persons placed in or committed to state institutions for the offenses specified below:

(1) Persons committed to the Department of the Youth Authority who are subsequently recalled pursuant to Section 1737, or subsequently recalled within 120 days of the date of such commitment, pursuant to Section 779, and persons committed to the Department of Corrections who are subsequently recalled pursuant to subdivision (d) or (f) of Section 1170 of the Penal Code.

(2) Persons committed to the Department of the Youth Authority or the Department of Corrections for diagnostic study pursuant to Section 704, 707.2, 1731.6, or 1752.1 of this code or Section 1203.03 of the Penal Code.

(3) Persons committed to the Department of the Youth Authority or the Department of Corrections as a result of having been found to have committed any of the following specified violent offenses:

(A) Murder in the first and second degree, as defined in Sections 187 and 189 of the Penal Code.

(B) Attempted murder, as defined in Sections 187, 189, and 664 of the Penal Code.

(C) Arson, as defined in Section 447a of the Penal Code.

(D) Robbery, as defined in Section 211 of the Penal Code, where one or more enhancements have been imposed pursuant to Section 12022, 12022.5, or 12022.7 of the Penal Code.

(E) Rape, as defined in subdivision 1, 2, or 3 of Section 261 of the Penal Code, or attempted rape.

(F) Kidnapping, as defined in Section 209 of the Penal Code.

(G) Assault with intent to commit murder, as defined in Section 217 of the Penal Code.

(H) Assault with a deadly weapon or instrument or by force, as defined in Section 245 of the Penal Code.

(I) Assault with chemicals, as defined in Section 244 of the Penal Code.

(J) Trainwrecking, as defined in Section 219 of the Penal Code.

(K) Any offense listed in Section 1203.06 or 1203.07 of the Penal Code, or Section 1203.08 of the Penal Code as added thereto by Chapter 735 of the Statutes of 1977.

(L) Any offense for which probation or suspension of sentence is prohibited by law.

(d) The county population for purposes of calculating the base commitment rate and the funding year commitment rate shall be that certified by the Department of Finance to the State Controller on July 1 of each fiscal year.

(e) The Department of the Youth Authority will annually compute the statewide average commitment rate for informational purposes.

(f) The use of commitment rates for fiscal years 1973-74, 1974-75, 1975-76, and 1976-77 for the calculation of the base commitment rate pursuant to subdivision (b) reflects the judgment of the Legislature that the present capacity of the state correctional system is insufficient to accommodate significant increase in the numbers of people committed to the Department of Corrections and the Department of the Youth Authority. It is the intent of the Legislature to reconsider the method of calculation of the base commitment rate at such time as the Department of Corrections or the Department of the Youth Authority develop the capacity to accommodate a significant increase in the number of people who may be committed to such departments.

(g) The Youth Authority shall, for any county which has a base commitment rate computed pursuant to subdivision (b) of 30 or less per 100,000 population, compute a modified base commitment rate by computing the ratio of new commitments by county population, expressed in a commitment rate per 100,000 population, for each of the fiscal years 1978-79 and 1979-80. The average rate for the two years shall be the modified base commitment rate for the county, except that each county for which a modified base commitment rate has been computed may elect to instead retain the rate computed pursuant to subdivision (b) as its base commitment rate.

SEC. 2. Section 1813 of the Welfare and Institutions Code is repealed.

SEC. 3. Section 1813 is added to the Welfare and Institutions Code, to read:

1813. (a) Commencing with the 1980-81 fiscal year, the maximum funding year entitlement of each county receiving funding under this article shall be determined on a per capita basis

by dividing the total amount appropriated and available for distribution to all counties by the total of the populations of all counties. The county population to be used for purposes of this subdivision shall be as certified by the Department of Finance for July 1 of the year preceding the funding year; except that 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 April 1 preceding the funding year.

(c) (1) It is the intent of the Legislature that the amounts available for purposes of this article continue during future funding years to be available at not less than the level of funding for the fiscal year immediately preceding the operative date of this section, as adjusted by such annual cost increase percentage as the Legislature shall determine appropriate for other local assistance programs for which there is no statutory cost of living adjustment provision.

(2) The Director of Finance shall annually adjust the maximum funding limitation for each county electing the method of maximum funding set forth in subdivision (b) by such annual cost increase percentage as the Legislature shall determine appropriate for other local assistance programs for which there is no statutory cost of living adjustment provision.

(d) Notwithstanding subdivision (e) of Section 1813 as it appeared immediately preceding the operative date of this section, there shall be no adjustment for fiscal years 1978-79, 1979-80, or any other time period, to the per capita funding limitation, as established pursuant to subdivision (a) of Section 1813 as it appeared immediately preceding the operative date of this enactment, due to actual state-mandated costs pursuant to Chapter 1071 of the Statutes of 1976 for the 1977-78 fiscal year. The Legislature hereby declares that the annual appropriation for the County Justice System Subvention program includes reimbursements of county costs, including services for which counties secured alternative funding.

(e) The maximum funding year entitlement for the counties who have elected the method set forth in subdivision (a) shall be adjusted by the Department of the Youth Authority each year using the following method:

(1) The total of the maximum amounts available to all those counties that have elected the method set forth in subdivision (b) shall be subtracted from the total amount available for distribution to all counties for the funding year.

(2) The remainder shall be the amount available for determination of the maximum funding year entitlement for those counties that have elected the method set forth in subdivision (a).

SEC. 4. Section 1814 of the Welfare and Institutions Code is repealed.

SEC. 5. Section 1814 is added to the Welfare and Institutions Code, to read:

1814. (a) Each county's funding year per capita distribution shall be made quarterly by the state. Each county shall file an annual summary program budget showing the county's intended distribution of its subvention in accordance with subdivision (a) of Section 1806.

(b) Any funds not used for actual expenditures within the funding year or one subsequent fiscal year shall revert to the state, except for funds encumbered annually by the county for capital expenditures, subject to the limitations set forth in subdivision (b) of Section 1806.

SEC. 6. This act shall become operative on July 1, 1980, except that if it has not been enacted by July 1, 1980, it shall be retroactive to July 1, 1980.

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 to insure that the changes in the law made by this act shall be given maximum implementation, it is necessary that these provisions take effect at the earliest possible date.

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## CHAPTER 1115

An act to repeal Sections 2 and 5 of Chapter 1405 of the Statutes of 1974, relating to taxation.

[Approved by Governor September 25, 1980 Filed with  
Secretary of State September 26, 1980 ]

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

SECTION 1. Section 2 of Chapter 1405 of the Statutes of 1974, as amended by Section 1 of Chapter 5 of the Statutes of 1979, is repealed.

SEC. 2. Section 5 of Chapter 1405 of the Statutes of 1974, as amended by Section 3 of Chapter 5 of the Statutes of 1979, is repealed.

SEC. 3. 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.

## CHAPTER 1116

An act to amend Section 31592.2 of the Government Code, and to repeal Section 2 of Chapter 430 of the Statutes of 1980, relating to the County Employees Retirement Law of 1937, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1980. Filed with  
Secretary of State September 26, 1980]

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

SECTION 1. Section 31592.2 of the Government Code is amended to read:

31592.2. In any county, earnings of the retirement fund during any year in excess of the total interest credited to contributions and reserves during such year shall remain in the fund as a reserve against deficiencies in interest earnings in other years, losses on investments, and other contingencies, except that, when such surplus exceeds 1 percent of the total assets of the retirement system, the board may transfer all, or any part, of such surplus in excess of 1 percent of the said total assets into county advance reserves for the sole purpose of payment of the cost of the benefits described in this chapter.

Where the board of supervisors has provided for the payment of all, or a portion, of the premiums, dues, or other charges for health benefits, Medicare, or the payment of accrued sick leave at retirement to or for all, or a portion, of officers, employees, and retired employees and their dependents, from the county general fund or other sources, the board of retirement may authorize the payment of all, or a portion, of payments of the benefits described in this paragraph from the county advance reserves.

SEC. 2. Section 2 of Chapter 430 of the Statutes of 1980 is repealed.

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 the benefits granted to retired employees prior to the enactment of Chapter 430 of the Statutes of 1980 to be continued, it is necessary for this act to take effect immediately.

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 CHAPTER 1117

An act to amend Section 12401 of the Health and Safety Code, to amend Sections 243, 273.5, 273a, 273d, 1026.5, 1170, 1170.1, 1203.01, 1203.2a, 2900, 3041.5, 3042, 3421, 4011.7, 4016.5, 4131.5, 4133, 4852.03, 4852.16, 5002, 5055 and 12420 of the Penal Code, and to amend

Sections 240, 1721, and 1802 of, and to add Section 5328.02 to, the Welfare and Institutions Code, relating to prison terms and youth and adult corrections.

[Approved by Governor September 25, 1980. Filed with Secretary of State September 26, 1980.]

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

SECTION 1. Section 12401 of the Health and Safety Code is amended to read:

12401. Every person who is found guilty of a felony as specified in this part is punishable by imprisonment in the state prison, or in a county jail not exceeding one year, or by fine not exceeding five thousand dollars (\$5,000), or by both such fine and imprisonment.

SEC. 2. Section 243 of the Penal Code is amended to read:

243. (a) A battery is punishable by fine of not exceeding one thousand dollars (\$1,000), or by imprisonment in the county jail not exceeding six months, or by both. When it is committed against the person of a peace officer or fireman, and the person committing the offense knows or reasonably should know that such victim is a peace officer or fireman engaged in the performance of his duties, and such peace officer or fireman is 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.

As used in this section, "peace officer" refers to any person designated as a peace officer by Section 830.1, by subdivisions (a) to (e), inclusive, of Section 830.2, Section 830.5, or by subdivision (a) of Section 830.6, as well as any policeman of the San Francisco Port Commission and each deputized law enforcement member of the Wildlife Protection Branch of the Department of Fish and Game.

(b) When it is committed against a person and serious bodily injury is inflicted on such person, the offense shall be punished by imprisonment in the county jail for a period of not more than one year or imprisonment in the state prison for two, three, or four years.

As used in this section, "serious bodily injury" means a serious impairment of physical condition, including, but not limited to, the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement.

SEC. 3. Section 273.5 of the Penal Code is amended to read:

273.5. (a) Any person who willfully inflicts upon his or her spouse, or any person who willfully inflicts upon any person of the opposite sex with whom he or she is cohabiting, corporal injury resulting in a traumatic condition, is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for 2, 3 or 4 years, or in the county jail for not more than one year.

(b) Holding oneself out to be the husband or wife of the person

with whom one is cohabiting is not necessary to constitute cohabitation as the term is used in this section.

SEC. 4. Section 273a of the Penal Code is amended to read:

273a. (1) Any person who, under circumstances or conditions likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health is endangered, is punishable by imprisonment in the county jail not exceeding one year, or in the state prison for 2, 3 or 4 years.

(2) Any person who, under circumstances or conditions other than those likely to produce great bodily harm or death, willfully causes or permits any child to suffer, or inflicts thereon unjustifiable physical pain or mental suffering, or having the care or custody of any child, willfully causes or permits the person or health of such child to be injured, or willfully causes or permits such child to be placed in such situation that its person or health may be endangered, is guilty of a misdemeanor.

SEC. 5. Section 273d of the Penal Code is amended to read:

273d. Any person who willfully inflicts upon any child any cruel or inhuman corporal punishment or injury resulting in a traumatic condition is guilty of a felony, and upon conviction thereof shall be punished by imprisonment in the state prison for 2, 3 or 4 years, or in the county jail for not more than one year.

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 facility pursuant to Section 1026 or 1026.1, 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 Sections 2930 to 2932, inclusive.

(2) In the case of a person committed to a state hospital or other facility pursuant to Section 1026 or 1026.1, who committed a felony prior to July 1, 1977, 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 the operative date of this section. Within 90 days of the date the person is received by the state hospital or other facility, or of the effective date of this subdivision, whichever is later, the Board of Prison Terms shall provide each person with the determination of his maximum term of commitment or shall notify such person that he will be scheduled for a hearing to determine his 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 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 facility pursuant to Section 1026 or 1026.1 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 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 subject to subdivision (b) of Section 1026 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 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) At the time of filing a petition, the court shall advise the person named in the petition of his right to be represented by an attorney and of his 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 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 person is a person described in paragraph (1), the court may order the patient recommitted to the facility in which he 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 outpatient or parole release as provided in Section 1026.1 or Section 7375 of the Welfare and Institutions Code.

(8) Prior to termination of a commitment under this subdivision, a petition for recommitment may be filed to determine whether the person 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. 6.1. 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 Sections 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 Board of Prison Terms shall provide each person with the determination of the person's 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 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. 7. Section 1170 of the Penal Code is amended to read:

1170. (a) (1) The Legislature finds and declares that the purposes 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 resentencing 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.

(g) Prior to sentencing pursuant to this chapter, the court may request information from the Board of Prison Terms concerning the sentences in this state of other persons convicted of similar crimes under similar circumstances.

SEC. 8. Section 1170.1 of the Penal Code is amended to read:

1170.1. (a) Except as provided in subdivision (b) and subject to Section 654, when any person is convicted of two or more felonies, whether in the same proceeding or court or in different proceedings or courts, and whether by judgment rendered by the same or by a different court, and a consecutive term of imprisonment is imposed under Sections 669 and 1170, the aggregate term of imprisonment for all such convictions shall be the sum of the principal term, the subordinate term and any additional term imposed pursuant to Section 667.5 or 667.6. The principal term shall consist of the greatest term of imprisonment imposed by the court for any of the crimes, including any enhancements imposed pursuant to Section 12022, 12022.3, 12022.5, 12022.6, 12022.7 or 12022.8. The subordinate term for each consecutive offense which is not a "violent felony" as defined in subdivision (c) of Section 667.5 shall consist of one-third of the middle term of imprisonment prescribed for each other such felony conviction for which a consecutive term of imprisonment is imposed, and shall exclude any enhancements. In no case shall the total of subordinate terms for such consecutive offenses which are not "violent felonies" as defined in subdivision (c) of Section 667.5 exceed five years. The subordinate term for each consecutive offense which is a "violent felony" as defined in subdivision (c) of Section 667.5, including those offenses described in paragraph (8) of subdivision (c) of Section 667.5, shall consist of one-third of the middle term of imprisonment prescribed for each other such felony conviction for which a consecutive term of imprisonment is imposed, and shall include one-third of any enhancements imposed pursuant to Section 12022, 12022.5 or 12022.7.

(b) In the case of any person convicted of one or more felonies committed while such person is confined in a state prison, or is subject to reimprisonment for escape from such custody and the law either requires the terms to be served consecutively or the court imposes consecutive terms, the term of imprisonment for all such convictions which such person is required to serve consecutively shall commence from the time such person would otherwise have been released from prison. If the new offenses are consecutive with each other, the principal and subordinate terms shall be calculated as provided in subdivision (a), except that the total of subordinate terms may exceed five years. The provisions of this subdivision shall be applicable in cases of convictions of more than one offense in different proceedings, and convictions of more than one offense in the same or different proceedings.

(c) When the court imposes a prison sentence for a felony pursuant to Section 1170 the court shall also impose the additional terms provided in Sections 667.5, 12022, 12022.5, 12022.6, and 12022.7, unless the additional punishment therefore is stricken pursuant to subdivision (g). The court shall also impose any other additional term which the court determines in its discretion or as required by law shall run consecutive to the term imposed under Section 1170. In considering the imposition of such additional term, the court shall apply the sentencing rules of the Judicial Council.

(d) When two or more enhancements under Sections 12022, 12022.5, and 12022.7 may be imposed for any single offense, only the greatest enhancement shall apply; however, in cases of robbery, rape or burglary, or attempted robbery, rape or burglary the court may impose both (1) one enhancement for weapons as provided in either Section 12022 or 12022.5 and (2) an enhancement for great bodily injury as provided in Section 12022.7.

(e) The enhancements provided in Sections 667.5, 667.6, 12022, 12022.3, 12022.5, 12022.6, 12022.7, and 12022.8 shall be pleaded and proven as provided by law.

(f) The term of imprisonment shall not exceed twice the number of years imposed by the trial court as the base term pursuant to subdivision (b) of Section 1170 unless the defendant stands convicted of a "violent felony" as defined in subdivision (c) of Section 667.5, or a consecutive sentence is being imposed pursuant to subdivision (b) of this section, or an enhancement is imposed pursuant to Section 12022, 12022.5, 12022.6 or 12022.7 or the defendant stands convicted of felony escape from an institution in which he is lawfully confined.

(g) Notwithstanding any other provision of law, the court may strike the additional punishment for the enhancements provided in Sections 667.5, 12022, 12022.5, 12022.6, and 12022.7 if it determines that there are circumstances in mitigation of the additional punishment and states on the record its reasons for striking the additional punishment.

(h) For any violation of subdivision (2) or (3) of Section 261, Section 264.1, subdivision (b) of Section 288, Section 289, or sodomy

or oral copulation by force, violence, duress, menace or threat of great bodily harm as provided in Section 286 or 288a, the number of enhancements which may be imposed shall not be limited, regardless of whether such enhancements are pursuant to this or some other section of law. Each of such enhancements shall be a full and separately served enhancement and shall not be merged with any term or with any other enhancement.

SEC. 9. Section 1203.01 of the Penal Code is amended to read:

1203.01. Immediately after judgment has been pronounced, the judge and the district attorney, respectively, may cause to be filed with the clerk of the court a brief statement of their views respecting the person convicted or sentenced and the crime committed, together with such reports as the probation officer may have filed relative to the prisoner. The judge and district attorney shall cause such statements to be filed if no probation officer's report has been filed. The attorney for the defendant and the law enforcement agency that investigated the case may likewise file with the clerk of the court statements of their views respecting the defendant and the crime of which he was convicted. Forthwith after the filing of such statements and reports, the clerk of the court shall mail a copy thereof, certified by such clerk, with postage thereon prepaid, addressed to the Department of Corrections at the prison or other institution to which the person convicted is delivered. Within 30 days after judgment has been pronounced, the clerk shall mail a copy of the transcript of the proceedings at the time of sentencing, with postage prepaid, to the prison or other institution to which the person convicted is delivered. The clerk shall also mail a copy of any statement submitted by the court, district attorney, or law enforcement agency, pursuant to this section, with postage thereon prepaid, addressed to the attorney for the defendant, if any, and to the defendant in care of the Department of Corrections, and a copy of any statement submitted by the attorney for the defendant, with postage thereon prepaid, shall be mailed to the district attorney.

SEC. 10. Section 1203.2a of the Penal Code is amended to read:

1203.2a. If any defendant who has been released on probation is committed to a prison in this state for another offense, the court which released him on probation shall have jurisdiction to impose sentence, if no sentence has previously been imposed for the offense for which he was granted probation, in the absence of the defendant, on the request of the defendant made through his counsel, or by himself in writing, if such writing is signed in the presence of the warden or superintendent of the prison in which he is confined or the duly authorized representative of the warden or superintendent, and such warden or superintendent or his representative attests both that the defendant has made and signed such request and that he states that he wishes the court to impose sentence in the case in which he was released on probation, in his absence and without his being represented by counsel.

The probation officer may, upon learning of such defendant's

imprisonment, and must within 30 days after being notified in writing by the defendant or his counsel, or the warden or superintendent or duly authorized representative of the prison in which the defendant is confined, report such commitment to the court which released him on probation.

Upon being informed by the probation officer of the defendant's confinement, or upon receipt from the warden, superintendent or duly authorized representative of any prison in this state of a certificate showing that the defendant is confined in prison, the court shall issue its commitment if sentence has previously been imposed. If sentence has not been previously imposed and if the defendant has requested the court through counsel or in writing in the manner herein provided to impose sentence in the case in which he was released on probation in his absence and without the presence of counsel to represent him, the court shall impose sentence and issue its commitment, or shall make other final order terminating its jurisdiction over the defendant in the case in which the order of probation was made. If the case is one in which sentence has previously been imposed, the court shall be deprived of jurisdiction over defendant if it does not issue its commitment or make other final order terminating its jurisdiction over defendant in the case within 60 days after being notified of the confinement. If the case is one in which sentence has not previously been imposed, the court is deprived of jurisdiction over defendant if it does not impose sentence and issue its commitment or make other final order terminating its jurisdiction over defendant in the case within 30 days after defendant has, in the manner prescribed by this section, requested imposition of sentence.

Upon imposition of sentence hereunder the commitment shall be dated as of the date upon which probation was granted. If the defendant is then in a state prison for an offense committed subsequent to the one upon which he has been on probation, the term of imprisonment of such defendant under a commitment issued hereunder shall commence upon the date upon which defendant was delivered to prison under commitment for his subsequent offense. Any terms ordered to be served consecutively shall be served as otherwise provided by law.

In the event the probation officer fails to report such commitment to the court or the court fails to impose sentence as herein provided, the court shall be deprived thereafter of all jurisdiction it may have retained in the granting of probation in said case.

SEC. 11. Section 2900 of the Penal Code is amended to read:

2900. (a) The term of imprisonment fixed by the judgment in a criminal action commences to run only upon the actual delivery of the defendant into the custody of the Director of Corrections at the place designated by the Director of Corrections as a place for the reception of persons convicted of felonies.

(b) Except as otherwise provided in this section, the place of reception shall be an institution under the jurisdiction of the

Director of Corrections.

(1) As an emergency measure, the Director of Corrections may direct that persons convicted of felonies may be received and detained in jails or other facilities and that the judgment will commence to run upon the actual delivery of the defendant into such place and that any persons previously received and confined for conviction of a felony may be, as an emergency, temporarily housed at such place and the time during which such person is there shall be computed as a part of the term of judgment.

(2) In any case in which, pursuant to the agreement on detainers or other provision of law, a prisoner of another jurisdiction is, before completion of actual confinement in a penal or correctional institution of a jurisdiction other than the State of California, sentenced by a California court to a term of imprisonment for a violation of California law, and the judge of the California court orders that the California sentence shall run concurrently with the sentence which such person is already serving, the Director of Corrections shall designate the institution of the other jurisdiction as the place for reception of such person within the meaning of the preceding provisions of this section. He may also designate the place in California for reception of such person in the event that actual confinement under the prior sentence ends before the period of actual confinement required under the California sentence.

(3) In any case in which a person committed to the Director of Corrections is subsequently committed to a penal or correctional institution of another jurisdiction, the subsequent commitment is ordered to be served concurrently with the California commitment, the prisoner is placed in a penal or correctional institution of the other jurisdiction, and the prisoner is not received by the Director of Corrections pursuant to subdivision (a), the Director of Corrections shall designate the institution of the other jurisdiction as the place for reception and service of the California term.

(c) Except as provided in this section, all time served in an institution designated by the Director of Corrections shall be credited as service of the term of imprisonment.

(1) If a person is ordered released by a court from the custody and jurisdiction of the Director of Corrections pursuant to Penal Code Section 1272 or 1506 or any other provision of law permitting the legal release of prisoners, time during which the person was released shall not be credited as service of the prison term.

(2) If a prisoner escapes from the custody and jurisdiction of the Director of Corrections, the prisoner shall be deemed an escapee and fugitive from justice, until the prisoner is available to return to the custody of the Director of Corrections or the State of California. Time during which the prisoner is an escapee shall not be credited as service of the prison term.

(d) The Department of Corrections may contract for the use of any facility of the state or political subdivision thereof to care for persons received in accordance with this section.

SEC. 12. Section 3041.5 of the Penal Code is amended to read:

3041.5. (a) At all hearings for the purpose of reviewing a prisoner's parole suitability, or the setting, postponing or rescinding of parole dates:

(1) At least 10 days prior to any hearing by the Board of Prison Terms, the prisoner shall be permitted to review his or her file which will be examined by the board and shall have the opportunity to enter a written response to any material contained in such file.

(2) The prisoner shall be permitted to be present, to ask and answer questions, and to speak on his own behalf.

(3) Unless legal counsel is required by some other provision of law, a person designated by the Department of Corrections shall be present to insure that all facts relevant to the decision be presented, including, if necessary, contradictory assertions as to matters of fact that have not been resolved by departmental or other procedures.

(4) The prisoner shall be permitted to request and receive a stenographic record of all proceedings.

(5) If the hearing is for the purpose of postponing or rescinding of parole dates, the prisoner will have rights set forth in paragraphs (3) and (5) of subdivision (a) of Section 2932.

(b) (1) Within 10 days following any meeting where a parole date has been set, the board shall send the prisoner a written statement setting forth his parole date, the conditions he must meet in order to be released on the date set, and the consequences of failure to meet such conditions.

(2) Within 20 days following any meeting where a parole date has not been set for the reasons stated in subdivision (b) of Section 3041, the board shall send the prisoner a written statement setting forth the reason or reasons for refusal to set a parole date; and suggest activities in which he might participate that will benefit him while he is incarcerated. The board shall hear each such case annually thereafter.

(3) Within 10 days of any board action resulting in the postponement of a previously set parole date, the board shall send the prisoner a written statement setting forth a new date and the reason or reasons for such action and shall offer the prisoner an opportunity for review of such action.

(4) Within 10 days of any board action resulting in the rescinding of a previously set parole date, the board shall send the prisoner a written statement setting forth the reason or reasons for such action and shall, within six months, set the prisoner's parole release date in accord with the provisions of Section 3041 and this section.

SEC. 13. Section 3042 of the Penal Code is amended to read:

3042. (a) At least 30 days before the Board of Prison Terms shall meet to review or consider the parole suitability or the setting of a parole date for any prisoner sentenced to a life sentence, the board shall send written notice thereof to each of the following persons: the judge of the superior court before whom the prisoner was tried and convicted, the attorney for the defendant, the district attorney of the

county from which the prisoner was sentenced, and the law enforcement agency that investigated the case.

(b) The Board of Prison Terms shall record all such hearings and transcribe such recordings within 30 days of any such hearing. All such transcripts, including the transcripts of all such prior hearings, shall be filed and maintained in the office of the Board of Prison Terms and shall be made available to the public no later than 30 days from the date of the hearing. No such prisoner shall actually be released on parole prior to 60 days from the date of the hearing.

(c) At any such hearing the presiding hearing officer must state findings and supporting reasons on the record.

(d) Any statements, recommendations, or other materials considered shall be incorporated into the transcript of any such hearing, unless such material is confidential in order to preserve institutional security and the security of others who might be endangered by disclosure.

(e) This section shall not apply to any hearing held to consider advancing a prisoner's parole date due to his conduct since his last hearing.

SEC. 14. Section 3421 of the Penal Code is amended to read:

3421. Children of women inmates may only participate in the program until they reach the age of two years and two months, at which time the Department of Corrections may arrange for their care elsewhere under any procedure authorized by statute and transfer the mother to another placement under the jurisdiction of the Department of Corrections if necessary; and provided further, that at its discretion in exceptional cases, including, but not limited to, cases where the mother's period of incarceration is extended, the department may retain such child and mother for a longer period of time.

SEC. 15. Section 4011.7 of the Penal Code is amended to read:

4011.7. Notwithstanding the provisions of Sections 4011 and 4011.5, when it appears that the prisoner in need of medical or surgical treatment necessitating hospitalization or in need of medical or hospital care was arrested for, charged with, or convicted of an offense constituting a misdemeanor, the court in proceedings under Section 4011 or the sheriff or jailer in action taken under Section 4011.5 may direct that the guard be removed from the prisoner while he is in the hospital. If such direction is given, any such prisoner who knowingly escapes or attempts to escape from such hospital shall upon conviction thereof be guilty of a misdemeanor and punishable by imprisonment for not to exceed one year in the county jail if such escape or attempt to escape was not by force or violence. However, if such escape is by force or violence such prisoner shall be guilty of a felony and punishable by imprisonment in the state prison, or in the county jail for not exceeding one year; provided, that when such second term of imprisonment is to be served in the county jail it shall commence from the time such prisoner would otherwise be discharged from such jail.

SEC. 16. Section 4016.5 of the Penal Code is amended to read:  
4016.5. When an alleged parole violator is detained in a county jail pursuant to an order of the Board of Prison Terms under the authority granted by Section 3060, or pursuant to an order of the Governor under the authority granted by Section 3062, or pursuant to a valid exercise of a state parole officer's peace officer powers as specified in Section 830.5 when such detention relates to violation of the conditions of parole and not a new criminal charge, the county shall be reimbursed for the costs of such detention by the Department of Corrections. Such reimbursement shall be expended for maintenance, upkeep, and improvement of 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 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 jail facility or facilities do not conform to minimum standards for local detention facilities as authorized by Section 6030 only if the county is failing to make reasonable efforts to correct differences, with consideration given to the resources available for such purposes.

"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. 17. Section 4131.5 of the Penal Code is amended to read:  
4131.5. Every person confined in, sentenced to, or serving a sentence in, a city or county jail, industrial farm, or industrial road camp in this state, who commits a battery upon the person of any individual who is not himself a person confined or sentenced therein, is guilty of a public offense and is punishable by imprisonment in a state prison, or in a county jail for not more than one year.

SEC. 18. Section 4133 of the Penal Code is amended to read:

4133. The boundary of every industrial farm established under the provisions of this article shall be marked by a fence, hedge or by some other visible line. Every person confined on any industrial farm who escapes therefrom or attempts to escape therefrom shall upon conviction thereof be imprisoned in a state prison, or in the county jail or industrial farm for not to exceed one year. Any such imprisonment shall begin at the expiration of the imprisonment in effect at the time of the escape.

SEC. 19. Section 4852.03 of the Penal Code is amended to read:

4852.03. The period of rehabilitation shall begin to run upon the discharge of the petitioner from custody due to his completion of the term to which he was sentenced or upon his release on parole or probation, whichever is sooner. For purposes of this chapter, the period of rehabilitation shall constitute three years' residence in this state, plus a period of time determined by the following rules:

(1) To the three years there shall be added four years in the case of any person convicted of violating Section 187, 209, 219, 4500 or 12310 of the Penal Code, or subdivision (a) of Section 1672 of the Military and Veterans Code, or of committing any other offense which carries a life sentence.

(2) To the three years there shall be added two years in the case of any person convicted of committing any offense which is not listed in subdivision (1) and which does not carry a life sentence.

(3) The trial court hearing the application for the certificate of rehabilitation may, if the defendant was ordered to serve consecutive sentences, order that his statutory period of rehabilitation be extended for an additional period of time which when combined with the time already served will not exceed the period prescribed by statute for the sum of the maximum penalties for all such crimes.

(4) Any person who was discharged after completion of his term or was released on parole before May 13, 1943, is not subject to the periods of rehabilitation set forth in these rules.

Unless and until the period of rehabilitation, as stipulated herein, has passed, the petitioner shall be ineligible to file his petition for a certificate of rehabilitation with the court. Any certificate of rehabilitation which is issued and under which the petitioner has not fulfilled the requirements of this chapter shall be void.

A change of residence within this state does not interrupt the period of rehabilitation prescribed by this section.

SEC. 20. Section 4852.16 of the Penal Code is amended to read:

4852.16. The certified copy of a certificate of rehabilitation transmitted to the Governor shall constitute an application for a full pardon upon receipt of which the Governor may, without any further investigation, issue a pardon to the person named therein, except that, pursuant to Section 8 of Article V of the Constitution, the Governor shall not grant a pardon to any person twice convicted of felony, except upon the written recommendation of a majority of the judges of the Supreme Court.

SEC. 21. Section 5002 of the Penal Code is amended to read:

5002. (a) The department shall succeed to and is hereby vested with all of the powers and duties exercised and performed by the following departments, boards, bureaus, commissions and officers when such powers and duties are not otherwise vested by law:

- (1) The Department of Penology.
- (2) The State Board of Prison Directors.
- (3) The Bureau of Paroles.
- (4) The warden and the clerk of the California State Prison at San Quentin.
- (5) The warden and the clerk of the California State Prison at Folsom.
- (6) The warden or superintendent of and the clerk of the California Institution for Men.
- (7) The California Crime Commission.

(b) Whenever any designation of any of the departments, boards, bureaus, commissions or officers mentioned in subdivision (a) is contained in any provision of law and such designation is expressly made to refer to the Department of Corrections, the Board of Corrections or the Board of Prison Terms, then the Department of Corrections, the Board of Corrections or the Board of Prison Terms, to whichever one the designation is made to refer, shall exercise the power or perform the duty heretofore exercised or performed by the particular departments, boards, bureaus, or officers mentioned in subdivision (a).

(c) The powers and duties of the State Board of Prison Directors and of the clerks of the state prisons and the California Institution for Men are transferred to and shall be exercised and performed by the Department of Corrections, except as may be otherwise expressly provided by law.

(d) The powers and duties of wardens of the state prisons and the California Institution for Men, presently or hereafter, expressly vested by law in them shall be exercised by them but such exercise shall be subject to the supervision and control of the Director of Corrections. All powers and duties not expressly vested in the wardens are transferred to and shall be exercised and performed by the Department of Corrections. When the designation of warden is expressly made to refer to the Department of Corrections, the department shall exercise the power and perform the duty heretofore exercised or performed by the warden.

(e) The Board of Prison Terms shall succeed to and is hereby vested with all of the powers and duties exercised and performed by the following boards when such powers and duties are not otherwise vested by law:

- (1) The Board of Prison Terms and Paroles.
- (2) The Advisory Pardon Board.
- (3) The Adult Authority.
- (4) The Women's Board of Terms and Paroles.
- (5) The Community Release Board.

SEC. 22. Section 5055 of the Penal Code is amended to read:

5055. All powers and duties granted to and imposed upon the Department of Corrections shall be exercised by the Director of Corrections, except where such powers and duties are expressly vested by law in the Board of Prison Terms.

Whenever a power is granted to the Director of Corrections or a duty is imposed upon the director, the power may be exercised or the duty performed by a deputy of the director or by a person authorized pursuant to law by the director.

SEC. 23. Section 12420 of the Penal Code is amended to read:

12420. Any person, firm, or corporation who within this state knowingly sells or offers for sale, possesses, or transports any tear gas or tear gas weapon, except as permitted under the provisions of this chapter, is guilty of a public offense and upon conviction thereof shall be punishable by imprisonment in the county jail for not exceeding

one year or by a fine not to exceed two thousand dollars (\$2,000), or by both.

SEC. 23.5. Section 240 of the Welfare and Institutions Code is amended to read:

240. In counties having a population in excess of 6,000,000 in lieu of a county juvenile justice commission, there shall be a probation committee consisting of not less than seven members who shall be appointed by the same authority as that authorized to appoint the probation officer in such county.

SEC. 24. Section 1721 of the Welfare and Institutions Code is amended to read:

1721. (a) The Youthful Offender Parole Board shall adopt policies governing the performance of its functions by the full board, or, pursuant to delegation, by panels, or referees. Whenever the board performs its functions meeting en banc in either public or executive sessions to decide matters of policy, at least four members shall be present and no such action shall be valid unless it is concurred in by a majority vote of those present.

(b) Case hearing representatives may be employed to participate with the board in the hearing of cases and to whom authority may be delegated as provided in this section.

(c) The board may delegate its authority to hear, consider, and act upon cases to members or case hearing representatives, sitting either on a panel or as a referee. A panel may consist of two or more members, a member and a case hearing representative, or two case hearing representatives. Two members of a panel shall constitute a quorum, and no action of the panel shall be valid unless concurred in by a majority vote of those present.

(d) When delegating its authority, the board may condition finality of the decision of the panel or referee to whom authority is delegated on concurrence of a member or members of the board. In determining whether, in any case, it shall delegate its authority and the extent of such delegation, the board shall take into account the degree of complexity of the issues presented by the case.

(e) The board shall adopt rules under which a person under the jurisdiction of the Youth Authority or other persons, as specified in such rules, may appeal any decision of a case hearing representative. The board shall consider and act upon the appeal in accordance with such rules.

SEC. 25. Section 1802 of the Welfare and Institutions Code is amended to read:

1802. When an order for continued detention is made as provided in Section 1801, the control of the authority over the person shall continue, subject to the provisions of this chapter, but, unless the person is previously discharged as provided in Section 1766, the Youthful Offender Parole Board shall, within two years after the date of such order in the case of persons committed by the juvenile court, or within two years after the date of such order in the case of persons committed after conviction in criminal proceedings, file a new

application for continued detention in accordance with the provisions of Section 1800 if continued detention is deemed necessary. Such applications may be repeated at intervals as often as in the opinion of the board may be necessary for the protection of the public, except that the department shall have the power, in order to protect other persons in the custody of the department to transfer the custody of any person over 21 years of age to the Director of Corrections for placement in the appropriate institution.

Each person shall be discharged from the control of the authority at the termination of the period stated in this section unless the board has filed a new application and the court has made a new order for continued detention as provided above in this section.

**SEC. 26.** Section 5328.02 is added to the Welfare and Institutions Code, to read:

**5328.02.** Notwithstanding Section 5328, all information and records made confidential under the first paragraph of Section 5328 shall also be disclosed to the Youth Authority and Adult Correctional Agency or any component thereof, as necessary to the administration of justice.

**SEC. 27.** It is the intent of the Legislature, if this bill and Senate Bill No. 1447 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 243 of the Penal Code, and this bill is chaptered after Senate Bill No. 1447, that the amendments to Section 243 proposed by Senate Bill No. 1447 shall become law, and Section 2 of this act shall not become operative.

**SEC. 28.** It is the intent of the Legislature, if this bill and Assembly Bill No. 2751 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 1026.5 of the Penal Code, and this bill is chaptered after Assembly Bill No. 2751, that the amendments to Section 1026.5 proposed by Assembly Bill No. 2751 shall become law, and Section 6 of this act shall not become operative.

**SEC. 29.** It is the intent of the Legislature, if this bill and Assembly Bill 2751 are both chaptered and become effective January 1, 1981, both bills amend Section 1026.5 of the Penal Code, and this bill is chaptered after Assembly Bill 2751, that the amendments to Section 1026.5 proposed by both bills be given effect and incorporated in Section 1026.5 in the form set forth in Section 6.1 of this act. Therefore, Section 6.1 of this act shall become operative only if this bill and Assembly Bill 2751 are both chaptered and become effective January 1, 1981, both amend Section 1026.5, and this bill is chaptered after Assembly Bill 2751, in which case Section 6 of this act shall not become operative.

**SEC. 30.** 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, changes the penalty of a crime for 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.

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## CHAPTER 1118

An act to add Section 16314 to the Government Code, relating to state funds.

[Approved by Governor September 25, 1980. Filed with  
Secretary of State September 26, 1980 ]

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

SECTION 1. Section 16314 is added to the Government Code, to read:

16314. (a) The Pooled Money Investment Board shall establish the annual rate of interest charged on short-term loans of state funds executed after January 1, 1981, where the statute authorizing such loans does not prohibit interest or specify an interest rate or a method of computing an interest rate. The rate of interest shall not be less than the last available daily rate of return earned by the Pooled Money Investment Account on the actual date of withdrawal or transfer of the loan funds.

(b) The Pooled Money Investment Board shall establish the annual rate of interest charged on long-term loans of state funds executed after January 1, 1981, where the statute authorizing such loans does not prohibit interest or specify an interest rate or a method of computing an interest rate. The rate of interest shall not be less than the lesser of the last available daily rate of return earned by the Pooled Money Investment Account on the actual date of withdrawal or transfer of the loan funds, or the average of the annual rates of return earned by the Pooled Money Investment Account for the three fiscal years immediately preceding the year in which the loan is executed.

(c) As used in this section, "short-term loans of state funds" means any loan from any fund or account in the State Treasury or from the reserve for contingencies or emergencies administered by the Department of Finance to any other fund in the State Treasury or to any state or local agency for a period of less than one year.

(d) As used in this section, "long-term loans of state funds" means any loan from any fund or account in the State Treasury or from the reserve for contingencies or emergencies administered by the Department of Finance to any other fund in the State Treasury or to any state or local agency for a period of one year or longer, except loans made pursuant to Section 71.4 of the Harbors and Navigation Code and Section 21602 of the Public Utilities Code.

(e) Notwithstanding subdivision (a), the Director of Finance shall

have the authority to waive interest charges on short-term loans of state funds to other state agencies or funds to cover temporary shortages of funds where anticipated reimbursements have not been forthcoming, or where the agency cannot recover interest charges in the reimbursement, or where the loan is to a department or agency which derives its support from the same fund from which the loan is to be made. This authority shall not apply to loans from the Pooled Money Investment Account.

(f) The Director of Finance may extend the loan repayment date of loans of state funds as defined in subdivisions (c) and (d). At the time any such loan repayment date is extended, the loan shall be considered to be a new loan for the purposes of establishing the annual rate of interest under the provisions of subdivisions (a) and (b) for the period the loan is extended. The interest rate established on the actual date of withdrawal or transfer of the loan funds shall not be altered by such an extension.

SEC. 2. The Legislative Analyst shall conduct a study of the criteria used by the Department of Boating and Waterways for selecting which local governments are to receive loans pursuant to Section 71.4 of the Harbors and Navigation Code and shall report to the Legislature on or before February 15, 1981.

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## CHAPTER 1119

An act to amend Sections 1.3, 2.2, and 7.2 of, to add Sections 2.21, 2.22, 2.71, 2.72, 2.9, 4.4, 7.6, 7.7, 7.8, and 7.9 to, and to repeal and add Article 5 (commencing with Section 5.1) of, the North Delta Water Agency Act (Chapter 283 of the Statutes of 1973), relating to the North Delta Water Agency, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1980 Filed with  
Secretary of State September 26, 1980]

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

SECTION 1. Section 1.3 of the North Delta Water Agency Act (Chapter 283 of the Statutes of 1973) is amended to read:

Sec. 1.3. As used herein, unless otherwise indicated by their context:

(a) "Agency" means the North Delta Water Agency.

(b) "United States" means and includes the United States of America and all bureaus, commissions, divisions, departments, boards, agencies, and officers of the executive branch thereof.

(c) "State of California" includes the State of California and all bureaus, commissions, divisions, departments, boards, agencies, and officers of the executive branch thereof.

(d) "Board" means the board of directors of the agency.

(e) "Director" means a member of the board of directors of the agency.

(f) "Chairman" means the chairman of the board of directors of the agency.

(g) "Secretary" means the secretary of the board of directors of the agency.

(h) "Legal representative" means an official of a corporation owning land, and means a guardian, conservator, or administrator of the estate of the holder of title to land who:

(1) Is appointed under the laws of this state.

(2) Is authorized by the appointing court to exercise the particular right, privilege, or immunity which he seeks to exercise.

(i) "Voter" means the owner of record of the fee title to lands within the agency.

(j) "Collector" means the collector of the agency.

(k) "Treasurer" means the treasurer of the agency.

SEC. 2. Section 2.2 of the North Delta Water Agency Act (Chapter 283 of the Statutes of 1973) is amended to read:

Sec. 2.2. Each landowner shall have one vote for each acre or fraction thereof of land to which he holds title within the agency. The last assessment roll of the county in which the land is located is conclusive evidence of ownership of the land for voting purposes. When a parcel is held as community property or in joint tenancy or as a tenancy in common, any spouse or joint tenant or tenant in common shall be presumed to have authority to cast the votes for such parcel.

SEC. 3. Section 2.21 is added to the North Delta Water Agency Act (Chapter 283 of the Statutes of 1973), to read:

Sec. 2.21. Parcels of one acre or less shall be entitled to one vote.

SEC. 4. Section 2.22 is added to the North Delta Water Agency Act (Chapter 283 of the Statutes of 1973), to read:

Sec. 2.22. If there is a redetermination of benefits pursuant to Section 5.9, the number of votes each voter is entitled to cast shall be determined by multiplying acreage by the percentage of benefit applicable to the zone within which the land is located.

SEC. 5. Section 2.71 is added to the North Delta Water Agency Act (Chapter 283 of the Statutes of 1973), to read:

Sec. 2.71. The board shall appoint an election board for each precinct consisting of three landowners within the agency or their legal representatives. The election board shall include one inspector and two judges of election. If a member of an election board fails to attend at the opening of the polls, the voters present may appoint in his place a landowner or legal representative.

SEC. 6. Section 2.72 is added to the North Delta Water Agency Act (Chapter 283 of the Statutes of 1973), to read:

Sec. 2.72. The assessor's rolls, plats, maps, and the list prepared by the collector pursuant to Section 5.7, shall be furnished to the election board of each precinct in which the land is situated and shall be used by the election board in determining the qualifications of

voters and the number of votes each voter is entitled to cast.

SEC. 7. Section 2.9 is added to the North Delta Water Agency Act (Chapter 283 of the Statutes of 1973), to read:

Sec. 2.9. Within five days after the election day, any voter may file with the board a written objection to the election board's determination of the number of votes the voter was entitled to cast. The board shall within five days thereafter review the objections and may recalculate the number of votes cast.

SEC. 7.5. Section 4.4 is added to the North Delta Water Agency Act (Chapter 283 of the Statutes of 1973), to read:

Sec. 4.4. The agency shall have no authority or power to affect, bind, prejudice, impair, restrict, or limit vested water rights within the agency.

SEC. 8. Article 5 (commencing with Section 5.1) of the North Delta Water Agency Act (Chapter 283 of the Statutes of 1973) is repealed.

SEC. 9. Article 5 (commencing with Section 5.1) is added to the North Delta Water Agency Act (Chapter 283 of the Statutes of 1973), to read:

#### Article 5. Finances

Sec. 5.1. Within 30 days after the effective date of this section, and on or before the 30th day of June of each year thereafter, the board shall determine, and cause to be thereafter charged and collected as provided in this act, an amount of money sufficient to meet and pay the estimated expenses and obligations, including a reasonable reserve for contingencies, of the agency, until such time as money shall be available to the agency from charges fixed in the next succeeding year, subject, however, to a maximum limit of thirty-five cents (\$0.35) upon each acre of taxable land within the agency for purposes other than payment under the contracts provided for in Section 4.1.

Sec. 5.2. The board shall fix a uniform charge per acre on each acre of taxable land within the agency sufficient to pay such expenses and obligations.

Sec. 5.3. In the event the charge for any parcel of land separately charged, based on the rate fixed pursuant to Section 5.2, is less than ten dollars (\$10), a minimum charge may be set by the board which shall not exceed ten dollars (\$10) for each separately charged parcel.

Sec. 5.4. The board may contract with any district, county, or other appropriate political subdivision within the agency, hereafter referred to as a payment contractor, for payment of a collective charge on behalf of all taxable land within the boundaries of the payment contractor in lieu of charges by the agency upon individual parcels within the payment contractor. The payment contractor shall be credited with the costs of collection saved by the agency as a result of the payment contract. In addition to the powers already granted any payment contractor, a payment contractor shall be

authorized to contract to pay the collective charges of the agency, and payment of the charge shall be a proper disbursement of each payment contractor. Any county which becomes a payment contractor is authorized to collect such charges by way of the tax bills of the county. In such case such charges shall appear as a separate item on the tax bill, shall be collected at the same time and in the same manner as county ad valorem property taxes are collected, and shall be subject to the same penalties and the same procedure and sale in case of delinquency as provided for such taxes.

Sec. 5.5. All payments of charges shall be made in installments, of such amounts and at such times as the board, by order, may direct. The collector shall bill each payment contractor and individual landowner not within a payment contractor. Bills shall be mailed by first-class mail to each payment contractor or landowner as shown on the records of the county assessors' offices which the assessors will use to prepare the next assessor's rolls. Payment shall be payable to the treasurer of the agency.

Sec. 5.6. Any charge erroneously made by reason of inadvertence or clerical mistake may be refunded upon order of the board at any time after payment thereof.

Sec. 5.7. The collector shall prepare a list containing the following information for the area within each payment contractor and for each parcel not within a payment contractor:

- (a) The property description.
- (b) The name of the payment contractor, names of the owners of each parcel not within a payment contractor, or if unknown, that fact.
- (c) The number of acres in each separately assessed parcel, based on the assessor's rolls, plats, and maps for each affected county.
- (d) The amount of the charge set pursuant to Section 5.2.
- (e) The percentage of benefit determined pursuant to Section 5.11 or 5.17.
- (f) The total amount to be collected for each parcel, the product of the amounts specified in subdivisions (c) and (d) or subdivisions (c), (d), and (e).

Sec. 5.8. The board may at any time make corrections in the determination of acreage of a parcel as shown on the collector's list.

Sec. 5.9. The board shall annually fix and collect a charge, as provided in Section 5.2, until the board, on its own motion or on petition of landowners representing at least 15 percent of the lands within the agency or at least 15 percent of the voters of the agency, directs that commissioners be named to make a redetermination of the benefits received and to establish one or more zones of benefit which shall reflect the proportion of benefits to be derived by the lands within the respective zone or zones from the operation of the agency and from any contract the agency may have entered into. Such redetermination shall be effective as of the first day of July in the next succeeding year.

Sec. 5.10. The board, pursuant to Section 5.9, shall thereafter

appoint three commissioners who have no interest in any real estate within the agency, each of whom, before entering upon his duties, shall make and subscribe an oath that he is not in any manner interested in any real estate within the agency, directly or indirectly, and that he will perform the duties of a commissioner to the best of his abilities.

Sec. 5.11. The commissioners shall determine whether the agency lands should be divided into more than one zone of benefit. If the commissioners determine that the agency shall be divided into more than one zone, the zones shall be given a numerical designation starting with Zone 1 which shall be the zone which receives the greatest proportional benefit. The benefit received by Zone 1 shall be assessed as 100 percent and the benefits received by the other zones shall be expressed in terms of relatively smaller percentages as such benefits compare with those received by Zone 1. The commissioners shall prepare a map showing the boundaries of such zones and their respective benefit percentages, and a report explaining the basis for their determination.

Sec. 5.12. Upon receipt of the commissioners' map and report, the board shall schedule a hearing thereon. Notice of the hearing shall be given in each county in which the agency is located by publishing once each week for at least two successive weeks in a newspaper of general circulation.

Sec. 5.13. The notice shall state the time and place of hearing, that the purpose of the hearing is to approve the report and map of the commissioners, and the location of the place or places where the report and map may be inspected. The notice shall include a brief, generalized description of the benefit zones and percentage of benefits determined for each zone.

Sec. 5.14. At the hearing, any landowner within the proposed boundaries of the benefit zone or other interested person may offer any relevant evidence or testimony relating to the boundaries of the benefit zones or the benefits to be received. Any such landowner or interested person may object to the inclusion of land within a benefit zone or may request the inclusion of any other land within the zone or a change in the percentage of benefits of any zone.

Sec. 5.15. At the conclusion of the hearing, the board may alter the boundaries of benefit zones or the percentages of benefits applicable thereto and shall make an order establishing the boundaries of benefit zones and the percentages of benefits applicable thereto which shall best approximate the benefits received.

Sec. 5.16. If the board orders that the agency shall be divided into more than one zone, then the charge per acre made pursuant to Section 5.2 shall be multiplied by the percentage of benefit applicable to the zone or zones within which the acreage is located, and shall then be increased by the factor necessary so that the total amount to be collected shall be equivalent to the amount determined to be required pursuant to Section 5.1.

Sec. 5.17. The board, subsequent to any redetermination of benefits made pursuant to Section 5.9, may, on its own motion or on petition of landowners representing at least 15 percent of the lands within the agency or at least 15 percent of the voters of the agency, direct that the zones of benefit or that the percentages of benefit be further redetermined in the same manner as provided in this article.

Sec. 5.18. The board shall establish dates of delinquency and impose penalties for delinquency not exceeding 10 percent of the amount to be collected and may, in addition, collect interest at the rate of 8 percent per annum, from the date of delinquency on all delinquent amounts, together with the costs of sale. The board may order a delinquency sale to be held in the manner prescribed in Article 1 (commencing with Section 51600) and Article 3 (commencing with Section 51656) of Chapter 4 of Part 7 of Division 15 of the Water Code. "County Treasurer" shall mean the treasurer of the agency, and any sale shall be held in the county in which the land is located.

The treasurer shall publish notice of the delinquency sale as provided, and shall, at least 30 days before sale, send by certified mail a notice of the delinquency sale to the owner of the property to be sold as shown on the records of the county assessors' offices which the assessors will use to prepare the next assessor's rolls. At least 60 days prior to the expiration of the time for redemption, the treasurer shall send by certified mail notice of the expiration of the redemption period to the owner of the property as shown on the records of the county assessors' offices which the assessors will use to prepare the next assessor's rolls. A sale of unredeemed property may be held in the manner prescribed in Chapter 5 (commencing with Section 51660) of Part 7 of Division 15 of the Water Code. The board may direct the collector not to proceed with the sale of any delinquent property, but to bring suit in the proper court in the name of the agency to recover the amount of the delinquent assessment, penalties, interest, and costs of suit.

Sec. 5.19. The board may, but need not, appoint as treasurer of the agency the county treasurer of any county situated in whole or in part within the boundaries of the agency. In the event that the county treasurer is appointed, he shall be the depository of the funds of the agency.

The board may issue warrants drawn on the appropriate funds of the agency to pay indebtedness of the agency incurred in carrying out the powers and duties of the agency in anticipation of the collection of charges.

SEC. 10. Section 7.2 of the North Delta Water Agency Act (Chapter 283 of the Statutes of 1973) is amended to read:

Sec. 7.2. The election called for the purpose of voting upon such a contract shall be conducted insofar as applicable, in the manner provided in Article 2 (commencing with Section 2.1) of this act, and may be held on any Tuesday, notwithstanding the provisions of Section 2502 of the Elections Code. No such election may be held

prior to December 2, 1980.

SEC. 11. Section 7.6 is added to the North Delta Water Agency Act (Chapter 283 of the Statutes of 1973), to read:

Sec. 7.6. The board shall not amend any contract of the nature and character authorized by Section 4.1 unless it first holds a hearing thereon, and no substantial written protest to the amendment is received by the board within 30 days following the date of such hearing. If a substantial written protest is received, the agency may not amend the contract unless an election is held pursuant to this article and a majority of the votes cast approve the amendment.

SEC. 12. Section 7.7 is added to the North Delta Water Agency Act (Chapter 283 of the Statutes of 1973), to read:

Sec. 7.7. Written protests received from landowners representing 15 percent of the land within the agency shall constitute a substantial written protest.

SEC. 13. Section 7.8 is added to the North Delta Water Agency Act (Chapter 283 of the Statutes of 1973), to read:

Sec. 7.8. Notice of the hearing on the proposed amendment shall be published in the manner prescribed in Section 7.3. The notice shall describe the proposed amendment, shall specify that written protests may be filed with the agency, and shall set a date for the hearing.

SEC. 14. Section 7.9 is added to the North Delta Water Agency Act (Chapter 283 of the Statutes of 1973), to read:

Sec. 7.9. The board shall not terminate any contract of the nature and character authorized by Section 4.1 unless the agency first holds a hearing thereon and follows the procedures pertaining to contract amendments.

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 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. 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 contracts between the North Delta Water Agency and the United States or the State of California, as provided for in the North Delta Water Agency Act, may be entered into and the terms carried out at the earliest possible time, and in order that vital protection may thereby be provided to the quality of waters in the delta at the earliest possible time, it is necessary that this act go into immediate effect.

## CHAPTER 1120

An act to amend Section 137 of the Penal Code, relating to criminal law.

[Approved by Governor September 25, 1980 Filed with  
Secretary of State September 26, 1980 ]

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

SECTION 1. Section 137 of the Penal Code is amended to read:

137. (a) Every person who gives or offers, or promises to give, to any witness, person about to be called as a witness, or person about to give material information pertaining to a crime to a law enforcement official, any bribe, upon any understanding or agreement that the testimony of such witness or information given by such person shall be thereby influenced is guilty of a felony.

(b) Every person who attempts by force or threat of force or by the use of fraud to induce any person to give false testimony or withhold true testimony or to give false material information pertaining to a crime to, or withhold true material information pertaining to a crime from, a law enforcement official is guilty of a felony, punishable by imprisonment in the state prison for two, three, or four years.

As used in this subdivision, "threat of force" means a credible threat of unlawful injury to any person or damage to the property of another which is communicated to a person for the purpose of inducing him to give false testimony or withhold true testimony or to give false material information pertaining to a crime to, or to withhold true material information pertaining to a crime from, a law enforcement official.

(c) Every person who knowingly induces another person to give false testimony or withhold true testimony not privileged by law or to give false material information pertaining to a crime to, or to withhold true material information pertaining to a crime from, a law enforcement official is guilty of a misdemeanor.

(d) At the arraignment, on a showing of cause to believe this section may be violated, the court, on motion of a party, shall admonish the person who there is cause to believe may violate this section and shall announce the penalties and other provisions of this section.

(e) As used in this section "law enforcement official" includes any district attorney, deputy district attorney, city attorney, deputy city attorney, the Attorney General or any deputy attorney general, or any peace officer included in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2.

(f) The provisions of subdivision (c) shall not apply to an attorney advising a client or to a person advising a member of his or her family.

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.

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## CHAPTER 1121

An act to add Section 44987.3 to the Education Code, relating to school employees.

[Approved by Governor September 25, 1980 Filed with  
Secretary of State September 26, 1980]

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

SECTION 1. Section 44987.3 is added to the Education Code, to read:

44987.3. (a) The governing board of a school district shall grant to any employee, upon request, a leave of absence without loss of any compensation for the purpose of enabling such employee to serve on any of the following boards, commissions, committees, or groups, so long as the requirements of subdivision (b) are satisfied:

(1) Advisory Commission on Special Education, as provided for by Section 33590.

(2) Advisory Committee for Child Care, as provided for by Chapter 2 (commencing with Section 8200) of Part 6.

(3) California Advisory Council on Vocational Education, as provided for by Section 8000.

(4) California Commission on Crime Control and Violence Prevention, as provided for by Section 14101 of the Penal Code.

(5) Curriculum Development and Supplemental Materials Commission, as provided for by Section 33530.

(6) Educational Innovation and Planning Commission, as provided for by Section 33502.

(7) Educational Management and Evaluation Commission, as provided for by Section 33550.

(8) Equal Educational Opportunities Commission, as provided for by Section 33570.

(9) Instructional Television Advisory Commission, as provided for by Sections 51872 and 51873.

(10) State Council of Educational Planning and Coordination, as provided for by Section 21000.

(11) Any other group, commission, or board authorized by statute;

or commission or board, any of whose members are appointed by the Governor or the State Board of Education; whose purposes and activities are to further public education, exclusive of the Commission for Teacher Preparation and Licensing.

(b) A leave of absence shall not be granted unless all the following requirements are satisfied:

(1) Service is performed in the State of California.

(2) The board, commission, committee, or group, in writing, informs the employee's district of such service.

(3) The board, commission, committee, or group agrees, prior to service, to reimburse the school district pursuant to subdivision (d).

(c) The leave of absence shall be limited to 20 school days per school year.

(d) Following the school district's payment of the employee for such leave of absence, the school district shall be reimbursed by the board, commission, committee, or group which the employee serves for the compensation paid to the employee's substitute and for actual administrative costs related to the leave of absence granted to the employee under this section, upon written request for such reimbursement by the school district. Reimbursement by the board, commission, committee, or group shall be made within 10 days after its receipt of the school district's certification of payment of compensation to the employee and of payment of compensation to the employee's substitute.

(e) The leave of absence without loss of compensation provided for by this section is in addition to the release time without loss of compensation granted to representatives of an exclusive representative by subdivision (c) of Section 3543.1 of the Government Code and the leave of absence granted employees by Section 44987.

(f) As used in this section, "school district" also means a county superintendent of schools.

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.

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## CHAPTER 1122

An act to amend Section 1 of Chapter 789 of the Statutes of 1978, relating to prisoners.

[Approved by Governor September 25, 1980 Filed with  
Secretary of State September 26, 1980 ]

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

SECTION 1. Section 1 of Chapter 789 of the Statutes of 1978 is amended to read:

Section 1. The sum of seven million six hundred thousand dollars (\$7,600,000) is hereby appropriated from the General Fund to the Department of Corrections for the preliminary planning for an additional maximum security facility or facilities and the razing of the California State Prison at San Quentin and possibly the California State Prison at Folsom.

Such appropriation is also made for the preliminary planning for the renovation of existing facilities and to inventory existing surplus state lands and to determine the suitability of such lands for new prison facilities.

Any plan developed for the construction of permanent new capacity shall not be adopted or implemented by the Department of Corrections until such proposal is submitted for review by the Legislature, in addition to annual state budget hearings and enacted into law.

SEC. 2. (a) It is the intent of the Legislature that the Department of Corrections utilize, to the extent possible, the authority granted in Chapter 9.5 (commencing with Section 6250) of Title 7 of Part 3 of the Penal Code to place inmates in community facilities, and to that end, all reasonable efforts shall be made to provide facilities to house at least 700 inmates by December 31, 1981. Further, it is the intent of the Legislature that the department utilize such facilities for prerelease planning for the maximum number of inmates to the extent authorized by law.

(b) The Director of Corrections is authorized to construct and establish two maximum security institutions on the existing site at Tehachapi, to replace the maximum security housing facilities at San Quentin which shall be razed within one year of completion and activation of the replacement institutions.

(c) It is the intent of the Legislature that the department house each inmate at the lowest custody level consistent with his or her classification and that the department acquire and build adequate facilities similar to those presently used in the Conservation Camp Program to house minimum custody inmates. Further, it is the intent of the Legislature that the department make all reasonable efforts to house 300 additional inmates in such facilities by June 30, 1982.

SEC. 3. Notwithstanding subdivision (d) of Section 1 of Chapter 1135 of the Statutes of 1979, no new prisons shall exceed 500 inmates in capacity, and new prisons whose primary purpose is the confinement of males shall be located on or south of the present site of the California Correctional Institution, Tehachapi.

## CHAPTER 1123

An act to add Section 831.5 to the Government Code, and to amend Sections 31102, 31400.1, and 31400.2 of, and to add Sections 31400.3 and 31400.4 to, the Public Resources Code, relating to public land trusts.

[Approved by Governor September 25, 1980 Filed with  
Secretary of State September 26, 1980.]

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

**SECTION 1.** Section 831.5 is added to the Government Code, to read:

831.5. (a) The Legislature declares that innovative public access programs, such as agreements with public land trusts, can provide effective and responsible alternatives to costly public acquisition programs. The Legislature therefore declares that it is beneficial to the people of this state to encourage private nonprofit entities such as public land trusts to carry out programs that increase opportunities for the public to enjoy access to and use of natural resources if such programs are consistent (1) with public safety, (2) with the protection of such resources, and (3) with public and private rights.

(b) For the purposes of Sections 831.2 and 831.4, "public entity" includes a public land trust which meets all of the following:

(1) Is a nonprofit organization existing under the provisions of Section 501(c) of the United States Internal Revenue Code.

(2) Has specifically set forth in its articles of incorporation as among its principal charitable purposes the conservation of land for coastal public access, agricultural, scientific, historical, educational, recreational, scenic, or open space opportunities.

(3) Has entered into an agreement with the State Coastal Conservancy for lands located within the coastal zone, as defined in Section 31006 of the Public Resources Code, or with the State Public Works Board for lands not located within the coastal zone, on such terms and conditions as are mutually agreeable, requiring the public land trust to provide nondiscriminatory public access consistent with the protection and conservation of either coastal or other natural resources, or both. The conservancy or the board, as appropriate, shall periodically review such agreement and determine whether the public land trust is in compliance with such terms and conditions. In the event the conservancy or the board determines that the public land trust is not in substantial compliance with such agreement, the conservancy or the board shall cancel the agreement, and the provisions of Sections 831.2 and 831.4 shall no longer apply with regard to that public land trust.

(c) For the purposes of Sections 831.2 and 831.4, "public employee" includes an officer, authorized agent, or employee of any

public land trust which is a public entity.

SEC. 2. Section 31102 of the Public Resources Code is amended to read:

31102. The Secretary of the Resources Agency shall select one of the public members to serve as the chairman of the conservancy. The public member shall serve as chairman at the pleasure of the secretary. A majority of the total authorized membership of the conservancy shall constitute a quorum for the transaction of any business under this division. The conservancy shall adopt its own regulations.

SEC. 3. Section 31400.1 of the Public Resources Code is amended to read:

31400.1. The conservancy may award grants to any public agency or nonprofit organization which is a public land trust having an agreement with the conservancy under subdivision (b) of Section 831.5 of the Government Code, having authority to acquire, develop, and operate public coastal accessways for purposes of the acquisition of interests in, and for initial development of, lands which are suitable for and which will be used for public accessways to and along the coast. No such grants may be awarded to any local agency unless the conservancy has first determined that the subject accessway will serve more than local public needs.

SEC. 4. Section 31400.2 of the Public Resources Code is amended to read:

31400.2. The conservancy may provide up to the total cost of the acquisition of interests in lands and the initial development of public accessways by any public agency or nonprofit organization, as provided in Section 31400.1. The amount of funding provided by the conservancy shall be determined by the total amount of funding available for coastal public accessway projects, the fiscal resources of the applicant, the urgency of the project relative to other eligible projects, and the application of factors prescribed by the conservancy for the purpose of determining project eligibility and priority in order to more effectively carry out the provisions of the division.

SEC. 5. Section 31400.3 is added to the Public Resources Code, to read:

31400.3. The conservancy may provide such technical assistance as is required to aid public agencies and nonprofit organizations in establishing a system of public coastal accessways, and related functions necessary to meet the objectives of this division.

SEC. 6. Section 31400.4 is added to the Public Resources Code, to read:

31400.4. No funds may be granted to a nonprofit organization under this chapter unless the nonprofit organization enters into an agreement with the conservancy, on such terms and conditions as the conservancy specifies, requiring the organization to provide public access to the coast, consistent with protection of natural and cultural resources.

In the case of a grant for land acquisition, the agreement shall provide the following: that the purchase price of any interest in land acquired by the nonprofit organization may not exceed fair market value as established by an appraisal approved by the conservancy; that the conservancy shall approve the terms under which the interest in land is acquired; that the interest in land acquired pursuant to a grant from the conservancy may not be used as security for any debt to be incurred by the nonprofit organization unless the conservancy approves the transaction; that the transfer of land acquired pursuant to a conservancy grant shall be subject to the approval of the conservancy and that a new agreement sufficient to protect the interest of the people of California shall be entered into with the transferee; that if any essential term or condition is violated, title to all interest in real property acquired with state funds shall immediately vest in the state; and that if the existence of the nonprofit organization is terminated for any reason, title to all interest in real property acquired with state funds shall immediately vest in the state unless another appropriate public agency or nonprofit organization is identified by the conservancy and agrees to accept title to all interests in real property. Any deed or other instrument of conveyance whereby real property is being acquired by a nonprofit organization pursuant to this section shall set forth the reversionary interest of the state.

The conservancy shall also require an agreement sufficient to protect the public interest in the case of a grant to a nonprofit organization for improvement and development of a public coastal accessway. The agreement shall particularly describe any real property which is subject to the agreement, and it shall be recorded by the conservancy in the county in which the real property is located.

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## CHAPTER 1124

An act to amend Section 99268.1 of the Public Utilities Code, relating to transportation.

[Approved by Governor September 25, 1980. Filed with  
Secretary of State September 26, 1980.]

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

SECTION 1. Section 99268.1 of the Public Utilities Code is amended to read:

99268.1. Commencing with claims for the 1980-81 fiscal year, an operator that was in compliance with Section 99268 during the 1978-79 fiscal year in order to be eligible for funds under this article shall be eligible for such funds in any fiscal year, if it remains in compliance with that section during the fiscal year. The

determination of compliance for any fiscal year shall be made in the same manner as the determination was made for the 1978-79 fiscal year, except for the exemption provided under Section 99267.5. An allowance for depreciation shall be made in the same manner as provided in the 1978-79 fiscal year.

For purposes of this section, an operator granted a waiver from the requirements of Section 99268 pursuant to Section 99268.8, as it read on January 1, 1979, shall not be deemed in compliance with that section.

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## CHAPTER 1125

An act to add Section 65906.5 to the Government Code, and to add Section 199.4 to the Streets and Highways Code, relating to transportation.

[Approved by Governor September 25, 1980 Filed with  
Secretary of State September 26, 1980.]

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

**SECTION 1.** Section 65906.5 is added to the Government Code, to read:

65906.5. Notwithstanding Section 65906, a variance may be granted from the parking requirements of a zoning ordinance in order that some or all of the required parking spaces be located offsite, including locations in other local jurisdictions, or that in-lieu fees or facilities be provided instead of the required parking spaces, if both the following conditions are met:

(a) The variance will be an incentive to, and a benefit for, the nonresidential development.

(b) The variance will facilitate access to the nonresidential development by patrons of public transit facilities, particularly guideway facilities.

**SEC. 2.** Section 199.4 is added to the Streets and Highways Code, to read:

199.4. Before the department may recommend the allocation of funds pursuant to Section 199 for an exclusive public mass transit guideway project, the applicant shall provide verification that the local ordinances governing offstreet parking requirements for nonresidential developments in the areas adjacent to the guideway project do not prohibit the substitution of offsite parking at guideway stations or in-lieu fees or facilities for some or all of the onsite parking spaces required.

This section shall become operative January 1, 1982.

## CHAPTER 1126

An act to amend Sections 6871, 6886 and 6915.4 of, to add Sections 6902.5 and 6927 to, and to repeal Section 17538.7 of, the Business and Professions Code, and to amend Section 1788.13 of, and to add Section 1788.16 to, the Civil Code, relating to debt collection.

[Approved by Governor September 25, 1980 Filed with  
Secretary of State September 26, 1980 ]

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

SECTION 1. Section 6871 of the Business and Professions Code is amended to read:

6871. In addition to any other penalty, any person, firm, corporation or voluntary association, or any officer or director of any corporation or association carrying on business as a collection agency unless he shall hold a valid collection agency license issued pursuant to this chapter or who carries on such business after the revocation or expiration of any license is guilty of a misdemeanor and punishable by a fine not exceeding one thousand dollars (\$1,000) or by imprisonment not exceeding one year or by both fine and imprisonment.

Any person who knowingly engages an unlicensed collection agency to conduct collections on his or her behalf is guilty of a misdemeanor.

The prosecuting officer of any county or city shall prosecute all violations of this chapter occurring within his jurisdiction.

SEC. 2. Section 6886 of the Business and Professions Code is amended to read:

6886. Except as in this chapter otherwise provided, an applicant for a qualification certificate shall:

- (a) Be at least 18 years of age.
- (b) Not subject to denial pursuant to Section 480.
- (c) Have been actively engaged in the collection agency business for at least one year during the five years next preceding the date on which his application is filed.
- (d) Pass the examination required.
- (e) Pay the required application and examination fees to the chief, except that the examination fee shall be waived if the applicant is the holder of a provisional qualification certificate.

SEC. 3. Section 6915.4 of the Business and Professions Code is amended to read:

6915.4. The provisions of Sections 6915 and 6915.1 shall not preclude the director from inspecting, examining, or investigating the business, including the books, accounts, records, and files used therein by the licensee, on such basis and on such occasion as shall be necessary to insure compliance with this chapter and any rule or regulation adopted by the director pursuant to this chapter. For the

purposes of this provision, the director shall have free access to the offices and places of business, books, accounts, records, papers, files, safes, and vaults of all licensees.

When an audit is performed as a consequence of information disclosed by the financial statements filed pursuant to Section 6915, the cost of such audit shall be charged to and paid by the licensee in accordance with rates established by regulations adopted by the director, subject to a maximum of seven hundred fifty dollars (\$750) for any one audit. If the licensee fails to pay such charge within 60 days after the date of the bureau's notice that the charge is due, his license shall forthwith be revoked. No licensee shall be required to pay a charge for any inspection, examination, investigation, or audit of his business under this chapter except to the extent provided for by this section.

SEC. 4. Section 6920.5 is added to the Business and Professions Code, to read:

6920.5. Any licensee whose primary office is located in another state shall, if conducting business in this state, maintain an office in this state and shall maintain a record of transactions conducted in this state in such office.

SEC. 5. Section 6927 is added to the Business and Professions Code, to read:

6927. (a) A collection agency shall notify a debtor in writing that a debtor's debt has been cancelled by the collection agency and returned to the creditor when the debtor has requested verification of the debt and the collection agency has not been able to provide the debtor with such verification or when the debtor has contested the validity of the debt and, as a result of such nonverification or nonvalidity, the collection agency has cancelled the debt back to the creditor.

(b) The collection agency shall be subject to the notification requirement of subdivision (a) only if the debtor has notified the collection agency of the debtor's address.

SEC. 6. Section 17538.7 of the Business and Professions Code is repealed.

SEC. 7. Section 1788.13 of the Civil Code is amended to read:

1788.13. No debt collector shall collect or attempt to collect a consumer debt by means of the following practices:

(a) Any communication with the debtor other than in the name either of the debt collector or the person on whose behalf the debt collector is acting;

(b) Any false representation that any person is an attorney or counselor at law;

(c) Any communication with a debtor in the name of an attorney or counselor at law or upon stationery or like written instruments bearing the name of the attorney or counselor at law, unless such communication is by an attorney or counselor at law or shall have been approved or authorized by such attorney or counselor at law;

(d) The representation that any debt collector is vouched for,

bonded by, affiliated with, or is an instrumentality, agent or official of any federal, state or local government or any agency of federal, state or local government, unless the collector is actually employed by the particular governmental agency in question and is acting on behalf of such agency in the debt collection matter;

(e) The false representation that the consumer debt may be increased by the addition of attorney's fees, investigation fees, service fees, finance charges, or other charges if, in fact, such fees or charges may not legally be added to the existing obligation;

(f) The false representation that information concerning a debtor's failure or alleged failure to pay a consumer debt has been or is about to be referred to a consumer reporting agency;

(g) The false representation that a debt collector is a consumer reporting agency;

(h) The false representation that collection letters, notices or other printed forms are being sent by or on behalf of a claim, credit, audit or legal department;

(i) The false representation of the true nature of the business or services being rendered by the debt collector;

(j) The false representation that a legal proceeding has been, is about to be, or will be instituted unless payment of a consumer debt is made;

(k) The false representation that a consumer debt has been, is about to be, or will be sold, assigned, or referred to a debt collector for collection; or

(l) Any communication by a licensed collection agency to a debtor demanding money unless the claim is actually assigned to the collection agency.

SEC. 8. Section 1788.16 is added to the Civil Code, to read:

1788.16. It is unlawful, with respect to attempted collection of a consumer debt, for a debt collector, creditor, or an attorney, to send a communication which simulates legal or judicial process or which gives the appearance of being authorized, issued, or approved by a governmental agency or attorney when it is not. Any violation of the provisions of this section is a misdemeanor punishable by imprisonment in the county jail not exceeding six months, or by a fine not exceeding two thousand five hundred dollars (\$2,500) or by both.

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 1127

An act to amend Section 11000 of the Business and Professions Code, relating to mobilehomes.

[Approved by Governor September 25, 1980 Filed with  
Secretary of State September 26, 1980.]

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

**SECTION 1.** 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; provided, however, that 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; and provided further, this chapter 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, 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. 2.** 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. 3. It is the intent of the Legislature, if this bill and Senate Bill 1736 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 1736, 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 2 of this act. Therefore, Section 2 of this act shall become operative only if this bill and Senate Bill 1736 are both chaptered and become effective January 1, 1981, both amend Section 11000, and this bill is chaptered after Senate Bill 1736, in which case Section 1 of this act shall not become operative.

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## CHAPTER 1128

An act to amend Sections 66427.1, 66451.3, 66452.3 and 66452.5 of, and to add Sections 66452.8 and 66452.9 to, the Government Code, relating to subdivisions.

[Approved by Governor September 25, 1980 Filed with  
Secretary of State September 26, 1980 ]

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

SECTION 1. Section 66427.1 of the Government Code is amended to read:

66427.1. The legislative body shall not approve a final map for a subdivision to be created from the conversion of residential real property into a condominium project, a community apartment project, or a stock cooperative project unless it finds all of the following:

(a) Each of the tenants of the proposed condominium, community apartment project, or stock cooperative project has been

or will be given 120 days' written notice of intention to convert prior to termination of tenancy due to the conversion or proposed conversion. The provisions of this subdivision shall not alter or abridge the rights or obligations of the parties in performance of their covenants, including, but not limited to the provision of services, payment of rent or the obligations imposed by Sections 1941, 1941.1 and 1941.2 of the Civil Code.

(b) Each of the tenants of the proposed condominium, community apartment project, or stock cooperative project has been or will be given notice of an exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of his or her intention not to exercise the right.

(c) The subdivider has or will have complied with the provisions of Section 66452.8 and, within 10 days after the filing of a tentative map pursuant to Section 66452, has, or will have, complied with the provisions of Section 66452.9, and each of the tenants of the proposed condominium, community apartment project, or stock cooperative project has been given the notice required by Sections 66451.3 and 66452.5, including notification of the tenant's rights under this section, and of the tenant's right to appear and the right to be heard at the hearing.

(d) The notices to tenants required by subdivisions (b) and (c) shall be deemed satisfied if such notices comply with the legal requirements for service by mail.

(e) This section shall not diminish, limit or expand, other than as provided herein, the authority of any city, county, or city and county to approve or disapprove condominium projects.

SEC. 1.5. Section 66427.1 of the Government Code is amended to read:

66427.1. The legislative body shall not approve a final map for a subdivision to be created from the conversion of residential real property into a condominium project, a community apartment project, or a stock cooperative project unless it finds all of the following:

(a) Each of the tenants of the proposed condominium, community apartment project or stock cooperative project has received, pursuant to Section 66452.9, written notification of intention to convert at least 60 days prior to the filing of a tentative map pursuant to Section 66452. There shall be a further finding that each such tenant, and each person applying for the rental of a unit in such residential real property, has, or will have, received all applicable notices and rights now or hereafter required by this chapter or Chapter 3 (commencing with Section 66451). In addition, a finding shall be made that each tenant has received 10 days' written

notification that an application for a public report will be, or has been, submitted to the Department of Real Estate, and that such report will be available on request. The written notices to tenants required by this subdivision shall be deemed satisfied if such notices comply with the legal requirements for service by mail.

(b) Each of the tenants of the proposed condominium, community apartment project, or stock cooperative project has been, or will be, given written notification within 10 days of approval of a final map for the proposed conversion.

(c) Each of the tenants of the proposed condominium, community apartment project, or stock cooperative project has been, or will be, given 180 days' written notice of intention to convert prior to termination of tenancy due to the conversion or proposed conversion. The provisions of this subdivision shall not alter or abridge the rights or obligations of the parties in performance of their covenants, including, but not limited to, the provision of services, payment of rent or the obligations imposed by Sections 1941, 1941.1, and 1941.2 of the Civil Code.

(d) Each of the tenants of the proposed condominium, community apartment project, or stock cooperative project has been, or will be, given notice of an exclusive right to contract for the purchase of his or her respective unit upon the same terms and conditions that such unit will be initially offered to the general public or terms more favorable to the tenant. The right shall run for a period of not less than 90 days from the date of issuance of the subdivision public report pursuant to Section 11018.2 of the Business and Professions Code, unless the tenant gives prior written notice of his or her intention not to exercise the right.

(e) This section shall not diminish, limit or expand, other than as provided herein, the authority of any city, county, or city and county to approve or disapprove condominium projects.

SEC. 2. Section 66451.3 of the Government Code is amended to read:

66451.3. Whenever a public hearing is held pursuant to this division, notice of the time and place thereof, including a general description of the location of the subdivision or proposed subdivision, shall be given at least 10 days before the hearing. Such notice shall be given by publication once in a newspaper of general circulation published and circulated in the local agency, or if there is none, by posting the notice in at least three public places in the local agency, or if the subdivision lies within a city, published in a newspaper of general circulation printed and published in the county and circulated in the city. In the case of a proposed conversion of residential real property to a condominium project, community apartment project, or stock cooperative project, such notice shall also be given by United States mail to each tenant of the subject property, and, in addition to notice of the time and place of the public hearing, shall include notification of the tenant's right to appear and the right to be heard. Such notice to tenants shall be given by the local agency,

and shall be deemed satisfied if the notice complies with the legal requirements for service by mail. Pursuant to Section 66451.2, fees may be collected from the subdivider for expenses incurred under this section. In addition to notice by publication, a local agency may give notice of the hearing in such other manner as it may deem necessary or desirable, as provided by local ordinance. Any interested person may appear at such a hearing and shall be heard.

SEC. 3. Section 66452.3 of the Government Code is amended to read:

66452.3. Any report or recommendation on a tentative map by the staff of the local agency to the advisory agency or legislative body shall be in writing and a copy thereof served on the subdivider and on each tenant of the subject property, in the case of a proposed conversion of residential real property to a condominium project, community apartment project, or stock cooperative project, at least three days prior to any hearing or action on such map by such advisory agency or legislative body. Pursuant to Section 66451.2, fees may be collected from the subdivider for expenses incurred under this section.

SEC. 4. Section 66452.5 of the Government Code is amended to read:

66452.5. (a) The subdivider, or any tenant of the subject property, in the case of a proposed conversion of residential real property to a condominium project, community apartment project, or stock cooperative project, may appeal from any action of the advisory agency with respect to a tentative map to the appeal board established by local ordinance or, if none, to the legislative body.

Any such appeal shall be filed with the clerk of the appeal board, or if there is none, with the clerk of the legislative body within 15 days after the action of the advisory agency from which the appeal is being taken.

Upon the filing of an appeal, the appeal board or legislative body shall set the matter for hearing. Such hearing shall be held within 30 days after the date of filing the appeal. Within 10 days following the conclusion of the hearing, the appeal board or legislative body shall render its decision on the appeal.

(b) The subdivider, any tenant of the subject property, in the case of a conversion of residential real property to a condominium project, community apartment project, or stock cooperative project, or the advisory agency may appeal from the action of the appeal board to the legislative body. Any such appeal shall be filed with the clerk of the legislative body within 15 days after the action of the appeal board from which the appeal is being taken.

Upon the filing of an appeal, the legislative body shall set the matter for hearing. Such hearing shall be held within 30 days after the date of filing the appeal. Within 10 days following the conclusion of the hearing, the legislative body shall render its decision on the appeal. The decision shall comply with the provisions of Sections 66473, 66473.5, and 66474, and shall include any findings required by

such sections.

(c) If there is an appeal board and it fails to act upon an appeal within the time limit specified in this chapter, the decision from which the appeal was taken shall be deemed affirmed and an appeal therefrom may thereupon be taken to the legislative body as provided in subdivision (b) of this section. If no such further appeal is taken, the tentative map, insofar as it complies with applicable requirements of this division and local ordinance, shall be deemed approved or conditionally approved as last approved or conditionally approved by the advisory agency, and it shall be the duty of the clerk of the legislative body to certify such approval, or if the advisory agency is one which is not authorized by local ordinance to approve, conditionally approve or disapprove the tentative map, the advisory agency shall submit its report to the legislative body as if no appeal had been taken.

If the legislative body fails to act upon an appeal within the time limit specified in this chapter, the tentative map, insofar as it complies with applicable requirements of this division and local ordinance, shall be deemed to be approved or conditionally approved as last approved or conditionally approved, and it shall be the duty of the clerk of the legislative body to certify such approval.

(d) Where local ordinance so provides, any interested person adversely affected by a decision of the advisory agency or appeal board may file a complaint with the governing body concerning any decision of the advisory agency or appeal board. Any such complaint shall be filed with the clerk of the governing body within 15 days after the action of the advisory agency or appeal board which is the subject of the complaint. Upon the filing of the complaint, the governing body may set the matter for hearing. Such hearing shall be held within 30 days after the filing of the complaint. Such hearing may be a public hearing for which notice shall be given in the time and manner provided.

Upon conclusion of the hearing the governing body shall, within seven days, declare its findings based upon the testimony and documents produced before it or before the advisory board or the appeal board. It may sustain, modify, reject, or overrule any recommendations or rulings of the advisory board or the appeal board and may make such findings as are not inconsistent with the provisions of this chapter or local ordinance adopted pursuant to this chapter.

(e) Notice of each hearing provided for in this section shall be sent by United States mail to each tenant of the subject property, in the case of a conversion of residential real property to a condominium project, community apartment project, or stock cooperative project, at least three days prior to any such hearing. The notice requirement of this subdivision shall be deemed satisfied if the notice complies with the legal requirements for service by mail. Pursuant to Section 66451.2, fees may be collected from the subdivider for expenses incurred under this section.

SEC. 5. Section 66452.8 is added to the Government Code, to read:

66452.8. (a) Commencing at a date not less than 60 days prior to the filing of a tentative map pursuant to Section 66452, the subdivider or his or her agent shall give notice of such filing, in the form outlined in subdivision (b), to each person applying after such date for rental of a unit of the subject property immediately prior to the acceptance of any rent or deposit from the prospective tenant by the subdivider.

(b) The notice shall be as follows:

“To the prospective occupant(s) of \_\_\_\_\_ :  
(address)

The owner (s) of this building, at (address), has filed or plans to file an application with the (city, county, or city and county) to convert this building to a (condominium, community apartment, or stock cooperative project). No units may be sold in this building unless the conversion is approved by the (city, county, or city and county) and until after a public report is issued by the Department of Real Estate. If you become a tenant of this building, you shall be given notice of each hearing for which notice is required pursuant to Sections 66451.3 and 66452.5 of the Government Code, and you have the right to appear and the right to be heard at any such hearing.

\_\_\_\_\_  
(signature of owner or owner’s agent)

\_\_\_\_\_  
(dated)

I have received this notice on \_\_\_\_\_ .  
(date)

\_\_\_\_\_  
(prospective tenant’s signature)”

(c) Failure by a subdivider or his or her agent to give the notice required in subdivision (a) shall not be grounds to deny the conversion. However, if the subdivider or his or her agent fails to give notice pursuant to this section, he or she shall pay to each prospective tenant who becomes a tenant and who was entitled to such notice, and who does not purchase his or her unit pursuant to subdivision (b) of Section 66427.1, an amount equal to the sum of the following:

(1) Actual moving expenses incurred when moving from the subject property, but not to exceed five hundred dollars (\$500).

(2) The first month’s rent on the tenant’s new rental unit, if any, immediately after moving from the subject property, but not to exceed five hundred dollars (\$500).

The requirements of this subdivision constitute a minimum state standard. However, nothing in this subdivision shall be construed to prohibit any city, county, or city and county from requiring, by ordinance or charter provision, a subdivider to compensate any

tenant, whose tenancy is terminated as the result of a condominium, community apartment project, or stock cooperative conversion, in amounts or by services which exceed those set forth in paragraphs (1) and (2) of this subdivision. In the case of such a requirement by any city, county, or city and county, a subdivider who meets the compensation requirements of the local ordinance or charter provision shall be deemed to satisfy the requirements of this subdivision.

SEC. 5.3. Section 66452.9 is added to the Government Code, to read:

66452.9. (a) Pursuant to the provisions of Section 66427.1, the subdivider shall give notice of the filing of a tentative map pursuant to Section 66452 in the form outlined in subdivision (b), to each tenant of the subject property.

(b) The notice shall be as follows:

“To the occupant(s) of

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(address)

The owner(s) of this building, at (address), has filed an application with the (city, county, or city and county) to convert this building to a (condominium, community apartment, or stock cooperative project). You shall be given notice of each hearing for which notice is required pursuant to Sections 66451.3 and 66452.5 of the Government Code, and you have the right to appear and the right to be heard at any such hearing.

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(signature of owner or owner's agent)

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(date)”

The written notices to tenants required by this section shall be deemed satisfied if such notices comply with the legal requirements for service by mail.

SEC. 5.6. It is the intent of the Legislature, if this bill and Senate Bill 1838 are both chaptered and become effective January 1, 1981, both bills amend Section 66427.1 of the Government Code, and this bill is chaptered after Senate Bill 1838, that the amendments to Section 66427.1 of the Government Code proposed by both bills be given effect and incorporated in Section 66427.1 in the form set forth in Section 1.5 of this act. Therefore, Section 1.5 of this act shall become operative only if this bill and Senate Bill 1838 are both chaptered and become effective January 1, 1981, both amend Section 66427.1 of the Government Code, and this bill is chaptered after Senate Bill 1838, in which case Section 1 of this act shall not become operative.

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 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.

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## CHAPTER 1129

An act to add Article 1.1 (commencing with Section 14030) to Chapter 7 of Part 3 of Division 9 of, and to add Section 14104.6 to, and to repeal and add Section 14022 of, the Welfare and Institutions Code, relating to Medi-Cal, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 25, 1980. Filed with  
Secretary of State September 26, 1980]

I am reducing the General Fund appropriation contained in Section 6 of Assembly Bill No. 1414 from \$600,000 to \$380,000. This amount is sufficient to provide funding for the additional positions in the Department of Health Services to monitor the Medi-Cal fiscal intermediary contract

With this reduction, I approve Assembly Bill No. 1414  
EDMUND G. BROWN JR., Governor

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

**SECTION 1.** Section 14022 of the Welfare and Institutions Code is repealed.

**SEC. 2.** Section 14022 is added to the Welfare and Institutions Code, to read:

**14022.** (a) This section shall be known as the "Medi-Cal Conflict of Interest Law."

It is the intent of the Legislature that provisions be made for disclosure of the interests of providers of service in the services, facilities and organizations to which they refer Medi-Cal recipients so that it is possible to determine the extent to which conflicts of interests may exist because of such referrals.

(b) As used in this section, the term "referral" means (1) the referral of a recipient by a provider of service to any other provider of service; (2) the placement of a recipient by a provider of service in any facility; or (3) the obtaining, requesting, ordering or prescribing of services or supplies by a provider of service on behalf of a recipient from any other provider of service.

As used in this section, the term "immediate family" includes the spouse and children of the provider of service, the parents of the provider of service and his spouse, and the spouses of the children of the provider of service.

(c) No payment under this chapter shall be made to a provider of service or to any facility or organization in which he or his immediate family has a significant beneficial interest, for services rendered in

connection with any referral of a recipient, unless there is on file with the director and the Advisory Health Council a statement of the nature and extent of such interest.

This section shall become operative only upon the date of which Section 1902(a) (4) (C) of the federal Social Security Act, as added by Public Law 95-559 is repealed, held invalid by a court of appeal, or otherwise made inoperative.

SEC. 3. Article 1.1 (commencing with Section 14030) is added to Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

#### Article 1.1. Medi-Cal Conflict of Interest Law

14030. (a) This article shall be known as the "Medi-Cal Conflict of Interest Law".

It is the intent of the Legislature that provisions be made for disclosure of the interests of providers of service in the services, facilities, and organizations to which they refer Medi-Cal recipients so that it is possible to determine the extent to which conflicts of interests may exist because of such referrals.

It is the further intent of the Legislature that provision be made for the regulation of employment of present and former employees of state and local agencies responsible for the expenditure of funds under Medi-Cal so as to avoid the risk of conflicts of interests.

(b) As used in this article, the term "referral" means (1) the referral of a recipient by a provider of service to any other provider of service; (2) the placement of a recipient by a provider of service in any facility; or (3) the obtaining, requesting, ordering, or prescribing of services or supplies by a provider of service on behalf of a recipient from any other provider of service.

As used in this article, the term "immediate family" includes the spouse and children of the provider of service, the parents of the provider of service and his spouse, and the spouses of the children of the provider of service.

As used in this article, the term "state or local officer or employee who is responsible for the expenditure of substantial amounts of funds under Medi-Cal" means (1) the Director of the State Department of Health Services, and (2) those other state officers or employees, and those local officers or employees, who are determined by the director by regulation to be responsible for the expenditure of substantial amounts of funds under the California Medical Assistance Act and California's State Plan under Title XIX of the federal Social Security Act.

As used in this article the term "substantial amounts of funds" shall have the meaning defined by the director by regulation. As used in this article, "judicial, quasi-judicial or other proceeding" shall have the meaning defined in Article 4 (commencing with Section 87400) of Chapter 7 of Title 9 of the Government Code.

14031. No payment under this chapter shall be made to a

provider of services or to any facility or organization in which a provider of service or his immediate family has a significant beneficial interest, for services rendered in connection with any referral of a recipient, unless there is on file with the director and the Advisory Health Council a statement of the nature and extent of such interest.

14032. (a) No state or local officer or employee who is responsible for the expenditure of substantial amounts of funds under Medi-Cal, no individual who formerly was such an officer or employee, and no partner of such an officer or employee shall commit any act, in connection with any activity concerning Medi-Cal, if the commission of such act by an officer or employee of the United States Government, an individual who was such an officer or employee, or a partner of such an officer or employee, in connection with any activity concerning the United States Government, would be prohibited by Section 207 or 208 of Title 18 of the United States Code.

(b) Upon the petition of any interested person or party, a court or state administrative agency or any officer thereof in any judicial, quasi-judicial or other proceeding may, after notice and an opportunity for hearing, exclude any person found to be in violation of this section from further participation in any judicial, quasi-judicial or other proceeding then pending before such court, agency or officer.

(c) The prohibitions of this section shall not apply to any person who left government service prior to the effective date of this section except that any such person who returned to government service on or after the effective date of this section shall be covered thereby.

14033. This article shall remain in effect only until Section 1902(a) (4) (C) of the federal Social Security Act, as added by Public Law 95-559 is repealed, held invalid by a court of appeal, or otherwise made inoperative, and as of such date is repealed.

SEC. 4. Section 14104.6 is added to the Welfare and Institutions Code, to read:

14104.6. (a) The Secretary of the Health and Welfare Agency shall be responsible for oversight of State Department of Health Services management of contracts for fiscal intermediary services awarded by the department.

(b) The procedures for system and acceptance testing specified in the contract awarded by the State Department of Health Services to Computer Sciences Corporation for fiscal intermediary services shall be followed. By November 12, 1980, the Director of the State Department of Health Services shall report to the Legislature on procedures, findings, remedies instituted to correct deficiencies, and on the results of such remedies.

(c) The Joint Legislative Audit Committee shall continue to investigate contracts in force for fiscal intermediary services awarded by the State Department of Health Services, to ascertain and identify problems concerning the claims processing procedures

developed pursuant thereto. A report summarizing the findings of the committee shall be submitted to the Legislature by January 1, 1981.

(d) The Joint Legislative Audit Committee and the Joint Legislative Budget Committee shall have access to records of the disbursement of funds or payments, including documents identifying names of applicants and recipients of benefits under Title XIX of the Social Security Act, and such records shall be released when requested by the committees. The committees shall use information from such records only for the purpose of investigating the procedures developed by the department for claims processing under the fiscal intermediary contracts. In any case, where disclosure is authorized pursuant to this section, the committees shall not disclose the identity of any applicant or recipient.

Except for the aforementioned release of information to the committees, this section shall not otherwise be construed to supersede any other provision of state law, including Section 10850.

(e) No Medi-Cal fiscal intermediary contract shall be approved, renewed or continued if a state employee is employed in a management, consultant or technical position by the contractor or a subcontractor to the contractor within one year after the state employee terminated state employment.

For purposes of this section, "state employee" means any appointive or civil service employee of the Governor's Office, the Health and Welfare Agency, the State Department of Health Services, the Controller's Office, the Attorney General, or the Legislature who, within two years prior to leaving state employment, had responsibilities related to development, negotiation, contract management, supervision, technical assistance or audit of a Medi-Cal fiscal intermediary.

The requirements of this section shall not apply to any state employee who terminated state employment prior to the operative date of this section.

SEC. 5. The Director of the State Department of Health Services shall adopt regulations implementing this act as emergency regulations in accordance with the provisions of the Administrative Procedure Act, Chapter 4.5 (commencing with Section 11371) of Part 1 of Division 3 of Title 2 of the Government Code. For the purposes of the Administrative Procedure Act, the adoption of such regulations shall be deemed to be an emergency and necessary for the immediate preservation of the public peace, health, and safety, or general welfare.

SEC. 6. The sum of one hundred fifty thousand dollars (\$150,000) is hereby allocated from the Contingent Funds of the Senate and the Assembly to the Joint Legislative Audit Committee for the purposes of subdivision (c) of Section 14104.6 of the Welfare and Institutions Code.

A sum of not to exceed six hundred thousand dollars (\$600,000) is hereby appropriated from the General Fund to the State

Department of Health Services for support of 30 additional positions for the purposes of monitoring the fiscal intermediary contracts.

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 to effectuate essential changes in the Medi-Cal program, it is necessary that this act take effect immediately.

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## CHAPTER 1130

An act to add and repeal Sections 1708.5 and 26681 of the Health and Safety Code, relating to health.

[Approved by Governor September 26, 1980. Filed with  
Secretary of State September 26, 1980 ]

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

SECTION 1. Section 1708.5 is added to the Health and Safety Code, to read:

1708.5. (a) This chapter shall not apply to laetrile or amygdalin or any vitamins, minerals, enzymes, or foods for special dietary uses deemed adjunctive or necessary to laetrile or amygdalin therapy, when prescribed in accordance with the procedures set forth in subdivision (c), and in accordance with subdivisions (f), (g), and (h) and conditions of use approved pursuant to Article 5 (commencing with Section 26670) of Chapter 6 of Division 21, by a physician and surgeon licensed to practice in this state who is certified as a medical oncologist by the American Board of Medical Oncology.

(b) The manufacture, sale, prescription, and use of laetrile or amygdalin shall, notwithstanding such exemption from the provisions of this chapter, be subject to other applicable provisions of law.

(c) A physician and surgeon shall meet each of the following requirements as to any patient before prescribing laetrile or amygdalin for such patient pursuant to this section:

(1) The patient shall have consented in writing on an informed consent form, which shall include at least the following:

(A) An explanation of the risks and benefits of laetrile or amygdalin as a form of cancer therapy.

(B) An explanation of the risks and benefits of standard treatment modalities; such as chemotherapy, radiation therapy, and surgery, commonly prescribed by most licensed physicians in California, a substantial part of whose practices include treatment for cancer.

(C) A statement explaining to the patient that such patient can withdraw from the laetrile or amygdalin therapy at any time during the course of treatment.

(D) A statement explaining that laetrile or amygdalin need not be used to the exclusion of the standard treatment modalities.

(E) A statement which encourages the patient to consult with a second physician who specializes in the use of standard treatment modalities for cancer prior to using laetrile or amygdalin.

(2) The informed consent form shall be signed and dated by both the physician and patient and shall be retained in the patient's medical record.

(3) Each physician using an informed consent form as provided for in this subdivision shall file a sample copy of that form with the Board of Medical Quality Assurance which shall be available for public inspection and review. The Board of Medical Quality Assurance may improve the informed consent form, as it deems appropriate, consistent with the criteria set forth in this subdivision.

(d) In enacting this section, the Legislature finds and declares that the efficacy of the use of laetrile or amygdalin with respect to cancer therapy has not been determined.

(e) Failure of a physician to comply with the provisions of this section shall be deemed unprofessional conduct.

(f) This section shall only apply to patients diagnosed as terminal by a physician and surgeon who is certified as a medical oncologist by the American Board of Medical Oncology, except that the provisions of this section shall also apply to other patients in programs conducted within the principal teaching hospital of a medical school in this state that is approved by the Board of Medical Quality Assurance pursuant to Section 2192 of the Business and Professions Code.

(g) The Resource for Cancer Epidemiology Section of the State Department of Health Services shall collate and evaluate information on the response of patients to the therapy authorized pursuant to this section and shall provide a report to the Legislature annually. A form for the collection of this information shall be developed jointly by the Resource for Cancer Epidemiology Section of the department and the Cancer Advisory Council established pursuant to Section 1701, in consultation with the Board of Medical Quality Assurance, for distribution by the latter. Every physician and surgeon using or administering this therapy shall, upon the commencement of such therapy and as requested thereafter, provide the information requested by the form, the purpose of which is to provide information which will enable an objective, impartial evaluation of the effectiveness of this therapy in cancer treatment. The information on the form shall at a minimum, include the following:

(1) Patient identification, including name, age, and sex.

(2) Treating physician's identification, including name, address, and license number.

(3) Diagnosis supported by a pathology report and histopathology slides or material.

(4) History and physical examination at the time the patient is to

receive laetrile, including the performance status of patient (Karnofsky scale).

(5) A surgical report, if available, and definition of extent of the disease by stage.

(6) Documentation of any measurable mass by physical exam, scans, or X-ray.

(7) History of previous medication, surgery, or radiation.

(8) The preparation of laetrile to be used and any other medications to be employed with laetrile.

(9) An agreement to provide continuing status reports on the patient.

(10) An agreement to provide a post mortem report on all patients who die while undergoing such therapy.

The provisions of this subdivision shall be implemented only to the extent they can be solely supported by available federal funds.

(h) 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 26681 is added to the Health and Safety Code, to read:

26681. Notwithstanding the provisions of paragraph (1) of subdivision (b) of Section 26670, subdivision (e) of Section 26672, or subdivision (c) of Section 26675, it shall not be a requirement for the approval of a new drug application for laetrile or amygdalin therapy, as specified in Section 1708.5, that the use of such drugs be proven effective under the conditions of use specified in any new drug application approved or submitted under this article. However, nothing in this section is intended to supersede any provision of this article, or regulations adopted pursuant to this article, relating to drug safety.

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. 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 1131

An act to amend Sections 18208, 18306, and 18505 of, and to add and repeal Section 18502.5 of, the Health and Safety Code, relating to mobilehome parks, and making an appropriation therefor.

[Approved by Governor September 26, 1980 Filed with  
Secretary of State September 26, 1980.]

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

SECTION 1. Section 18208 of the Health and Safety Code is amended to read:

18208. "Incidental camping area" is any area or tract of land where camping is incidental to the primary use of the land for agriculture, timber management, or water or power development purposes, and where two or more campsites used for camping are rented or leased or held out for rent or lease. The density of usage shall not exceed 25 camping parties within a radius of 265 feet from any campsite within the incidental camping area.

SEC. 2. Section 18306 of the Health and Safety Code is amended to read:

18306. The department shall evaluate the enforcement of this part, building standards published in the State Building Standards Code relating to mobilehome parks, travel trailer parks, recreational trailer parks, temporary trailer parks, incidental camping areas, and tent camps, and other regulations adopted pursuant to the provisions of this part by each city, county, or city and county which has assumed responsibility for enforcement.

In performing this evaluation, the department shall have the following authority:

(a) To examine the records of local enforcement agencies and to secure from them reports and copies of their records at any time. However, if the department requires duplication of these records, it shall pay the costs of such duplication.

(b) To carry out such investigations as it deems necessary to ensure enforcement of the provisions of this part and the regulations adopted pursuant thereto.

SEC. 3. Section 18502.5 is added to the Health and Safety Code, to read:

18502.5. (a) There is hereby established in the State Treasury the Mobilehome Parks Revolving Fund into which funds collected by the department pursuant to this part shall be deposited. Money deposited in the fund is continuously appropriated to the department for expenditure in carrying out the provisions of this part.

(b) Notwithstanding any maximum fees set by this part, the department may, by regulation, set fees charged by the department for all permits and for the department's activities mandated by this

part. Such fees shall be set with the primary objective that the aggregate revenue deposited in the Mobilehome Parks Revolving Fund shall not, on an annual basis, exceed the costs of the department's activities mandated by this part.

(c) No proposed increase in fees may be effective any sooner than 45 days after written notification thereof is provided to the chairman of the Joint Legislative Audit Committee and the Auditor General. Upon receipt of the notification, the Auditor General shall prepare, within 30 days, a report to the Legislature which indicates whether the proposed increase is appropriate and consistent with the provisions of this part.

(d) The total money contained in the Mobilehome Parks Revolving Fund on June 30 of each fiscal year shall not exceed the amount of money needed for the department's operating expenses for one year for the enforcement of this part. If the total money contained in the fund exceeds this amount, the department shall make appropriate reductions in the schedule of fees authorized by this section.

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 such date, deletes or extends such date.

SEC. 4. Section 18505 of the Health and Safety Code is amended to read:

18505. A permit to operate shall be issued by the department following notification by the local enforcement agency of completion of construction of a new mobilehome park or additional lots to an existing mobilehome park. The local enforcement agency shall, by approving the application for a permit to operate, authorize occupancy of the newly constructed facilities. Upon approval by the local enforcement agency, one copy of the permit application shall be provided to the applicant and one copy shall be forwarded to the department.

SEC. 5. The Joint Legislative Audit Committee shall conduct a study utilizing existing available resources evaluating the mobilehome enforcement program administered by the Department of Housing and Community Development pursuant to Part 2 (commencing with Section 18000) of, and Part 2.1 (commencing with Section 18200) of, Division 13 of the Health and Safety Code. A final report on the study shall be submitted to the Legislature on or before January 1, 1983.

SEC. 6. To the extent that revenues received by the state pursuant to this act require a reduction in the appropriation limit of the state, pursuant to Article XIII B of the California Constitution, it is the intent of the Legislature that appropriations to the Department of Housing and Community Development shall, in the year of such reduction, be reduced by an amount equal to such reduction in the state's appropriation limit.

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.

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CHAPTER 1132

An act to amend Sections 35055, 35205, 35302, 35402, 54790, 54790.3, 54799, 56045, 56080, 56325, 56440, 56443, and 65859 of, to add Sections 56275.1, and 56444 to, and to repeal Sections 56052, 56055, 56074, 56116, 56117, 56441, and 56442 of, the Government Code, relating to local government.

[Approved by Governor September 26, 1980 Filed with  
Secretary of State September 26, 1980 ]

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

**SECTION 1.** Section 35055 of the Government Code is amended to read:

35055. Notice required to be given pursuant to this part shall be given in the same manner and form prescribed in Chapter 3 (commencing with Section 56080) of Part 1 of Division 1 of Title 6 of this code and in Section 4002 of the Elections Code.

**SEC. 2.** Section 35205 of the Government Code is amended to read:

35205. In proceedings for an annexation, detachment, municipal reorganization, or incorporation, any written protest shall show the date that each signature was affixed to such protest. All signatures without a date or bearing a date prior to the date of adoption of the resolution initiating proceedings shall be disregarded. Any person who has signed a written protest may withdraw his or her name from such protest at any time prior to conclusion of the public hearing.

**SEC. 3.** Section 35302 of the Government Code is amended to read:

35302. The clerk shall also give mailed notice of the hearing as provided in Section 35055 to all of the following:

(a) Any person who has filed his or her name and address with the clerk and has requested such mailed notice.

(b) Chief petitioners, if any, as indicated in the petition initiating preliminary proceedings pursuant to this part.

(c) Each affected city.

(d) If uninhabited, to each owner of land within the affected territory.

(e) The executive officer of the local agency formation commission.

Mailed notice given pursuant to this section shall contain all the information specified in Section 35300.

SEC. 4. Section 35402 of the Government Code is amended to read:

35402. All proper expenses incurred in conducting proceedings for city incorporation, change of organization or municipal reorganization pursuant to Chapter 3 (commencing with Section 35200) shall be paid, unless otherwise provided by agreement between the conducting authority and the proponents, as follows:

(a) In the case of annexation or detachment proceedings, by the city to or from which territory is annexed or detached or was proposed to be annexed or detached.

(b) In the case of incorporation proceedings, by the newly incorporated city, if successful, or by the county within which the proposed city is located if the incorporation proceedings are terminated.

(c) In the case of disincorporation proceedings, from the remaining assets of the disincorporated city or by the city proposed to be disincorporated if disincorporation proceedings are terminated.

(d) In the case of consolidation proceedings, by the successor city or by the cities proposed to be consolidated, to be paid by such cities in proportion to their respective assessed values, if consolidation proceedings are terminated.

(e) In the case of municipal reorganization:

(1) If the municipal reorganization is ordered, by the affected city or cities, successor consolidated city or cities, or newly incorporated city or cities, as the case may be, for any of the above-enumerated changes of organization or city incorporation which may be included in the particular municipal reorganization, to be paid by such cities in proportion to their assessed value.

(2) If the municipal reorganization proceedings are terminated or the proposal is defeated by the county within which such city is located.

SEC. 5. Section 54790 of the Government Code is amended to read:

54790. The commission shall have the following powers and duties, subject to the limitations upon its jurisdiction herein set forth:

(a) To review and approve or disapprove with or without amendment, wholly, partially or conditionally proposals for:

(1) The incorporation of cities.

(2) The formation of special districts.

(3) The annexation of territory to local agencies, (other than local agencies the annexation of territory to which is required to be made pursuant to the provisions of Division 1 (commencing with Section 56000) of Title 6); provided that a commission shall not impose any conditions which would directly regulate land use or subdivision requirements. Nothing in this paragraph, however, shall be construed as prohibiting a commission from requiring, as a condition to annexation, that a city prezone the territory to be annexed. In those cases in which the commission requires pre zoning, a city shall

prezone property for all proposals regardless of the method of initiation, when so requested. Such pre zoning shall be accomplished prior to the commission's review pursuant to the provisions of Chapter 4 (commencing with Section 65800) of Division 2 of Title 7, when so requested. The commission shall not specify how, or in what manner, the territory shall be pre zoned. By resolution, the commission may delegate authority to the executive officer to require pre zoning.

(4) The exclusion of territory from a city.

(5) The disincorporation of a city.

(6) The consolidation of two or more cities.

(7) The development of new communities within the jurisdiction of the commission pursuant to Sections 33021 and 33298 of the Health and Safety Code.

(b) To adopt standards and procedures, including, but not limited to, the evaluation of proposals, including standards for each of the factors enumerated in Section 54796.

(c) To make and enforce rules and regulations, including, but not limited to, the orderly and fair conduct of hearings by the commission.

(d) To incur usual and necessary expenses for the accomplishment of its functions.

(e) To appoint and assign staff personnel and to employ or contract for professional or consulting services to carry out and effect the functions of the commission.

(f) To review the boundaries of the territory involved in any proposal with respect to the definiteness and certainty thereof, the nonconformance of proposed boundaries with lines of assessment or ownership, and other similar matters affecting the proposed boundaries.

(g) To waive the restrictions of Section 35010 if it finds that the application of the restrictions would be detrimental to the orderly development of the community and that the area that would be enclosed by the annexation or incorporation is so located that it cannot reasonably be annexed to another city or incorporated as a new city.

(h) To waive the application of Section 25210.90 if it finds the application would deprive an area of a service needed to insure the health, safety, or welfare of the area's residents and if it finds that such waiver would not affect the ability of a city to provide any service. However, within 60 days of the inclusion of the territory within the city, the governing body may adopt a resolution nullifying the waiver.

SEC. 6. Section 54790.3 of the Government Code is amended to read:

54790.3. (a) If the proposal includes the incorporation of a city, as defined in Section 35037, or the formation of a district, as defined in Section 2215 of the Revenue and Taxation Code, the commission shall, pursuant to the provisions of subdivision (b), determine the

amount of property tax revenue to be exchanged by the affected local agency.

(b) In making its determination as required by subdivision (a), the commission shall do all of the following:

(1) Request the county auditor to determine the proportion that the amount of property tax revenue derived by each affected local agency pursuant to subdivision (b) of Section 2237 of the Revenue and Taxation Code bears to the total amount of revenue from all sources, available for general purposes, received by such agency in the prior fiscal year.

(2) Determine, based on information submitted by each affected local agency, an amount equal to the total cost to each affected local agency during the prior fiscal year of providing those services which the new jurisdiction will assume within the area subject to the proposal.

(3) Multiply the amount determined pursuant to paragraph (2) for each affected local agency by the corresponding proportion determined pursuant to paragraph (1) to derive the amount of property tax revenue used to provide services by each affected local agency during the prior fiscal year within the area subject to the proposal.

(c) Following the approval of a proposal subject to this section, the executive officer shall notify the auditor of the amount determined in paragraph (3) of subdivision (b).

SEC. 7. Section 54799 of the Government Code is amended to read:

54799. If the commission disapproves a proposal, no further proceeding shall be taken thereon. No application for a subsequent proposal involving any of the same territory may be filed with the commission for at least one year after the date of disapproval without the consent of the commission.

SEC. 8. Section 56045 of the Government Code is amended to read:

56045. "Inhabited territory" means territory within which there reside 12 or more registered voters at the time preliminary proceedings are initiated pursuant to Part 2 (commencing with Section 56130). All other territory shall be deemed uninhabited.

SEC. 9. Section 56052 of the Government Code is repealed.

SEC. 10. Section 56055 of the Government Code is repealed.

SEC. 11. Section 56074 of the Government Code is repealed.

SEC. 12. Section 56080 of the Government Code is amended to read:

56080. Notice authorized or required to be given by publication, posting or mailing shall be given by the clerk or executive officer and shall contain all matters required by any particular provision of this division. If any ordinance, resolution or order of any legislative body or the commission gives notice and contains all matters required to be contained in any notice, the clerk or executive officer may cause a copy of such ordinance, resolution or order to be published, posted

or mailed, in which case no other notice need be given by the clerk or executive officer. The notice requirements of Section 4002 of the Elections Code shall also be met.

SEC. 13. Section 56116 of the Government Code is repealed.

SEC. 14. Section 56117 of the Government Code is repealed.

SEC. 15. Section 56275.1 is added to the Government Code, to read:

56275.1. Any legislative body conducting a proceeding as described in Section 56275 may, before the completion thereof, on good cause being shown, correct clerical errors or mistakes made through inadvertence, surprise, or excusable neglect that may be contained in the commission's resolution making determinations, if it first obtains the written consent of either the executive officer or the commission. The commission may likewise make such corrections before the completion of subsequent proceedings upon application by any member of the commission, by the executive officer of the commission or by any affected agency.

SEC. 16. Section 56325 of the Government Code is amended to read:

56325. (a) Except as otherwise provided in subdivision (b), if the proceedings for annexation or detachment are terminated, either by majority protest as provided in Section 56316 or by failure of the majority of voters to confirm the order at an election held pursuant to Section 56321, then no new proposal for the same or substantially the same plan of annexation or detachment may be filed with the commission within one year after the date of adoption of the resolution terminating such proceedings.

(b) The commission may waive the provisions of subdivision (a) if it finds such provisions are detrimental to the public interest.

SEC. 17. Section 56440 of the Government Code is amended to read:

56440. In any resolution ordering a reorganization, subject to confirmation of the voters, the board of supervisors shall call and provide for an election to be held and conducted within all of the following:

(a) The entire territory of each district ordered to be formed, dissolved, or consolidated.

(b) The entire territory of each district ordered to be merged with or established as a subsidiary district of the city; or both within the district and within the entire territory of such city outside the boundaries of the district.

(c) Within any territory ordered annexed to, or detached from, a district.

(d) Subject to compliance with any commission order pursuant to Section 56252.1, both within the territory proposed to be reorganized and within the territory of any city to which territory is proposed to be annexed.

SEC. 18. Section 56441 of the Government Code is repealed.

SEC. 19. Section 56442 of the Government Code is repealed.

SEC. 20. Section 56443 of the Government Code is amended to read:

56443. After the canvass of the returns of the special election upon the question of reorganization, the board of supervisors shall adopt a resolution doing either of the following:

(a) Confirming the order of reorganization where such question was favored by a majority of the votes cast thereon within the entire territory within which an election was held.

(b) Determining the order of reorganization defeated by failure to receive the required vote.

SEC. 21. Section 56444 is added to the Government Code, to read:

56444. (a) Except as otherwise provided in subdivision (b), if proceedings for a reorganization involving only annexations or detachments are terminated either by majority protest as provided in Section 56438 or by failure of the majority of voters to confirm the order at an election held pursuant to Section 56440, no new proposal for the same or substantially the same plan of reorganization may be filed with the commission within one year after the date of adoption of the resolution terminating such proceedings.

(b) The commission may waive the provisions of subdivision (a) if it finds such provisions are detrimental to the public interest.

SEC. 22. Section 65859 of the Government Code is amended to read:

65859. A city may prezone unincorporated territory adjoining the city for the purpose of determining the zoning that will apply to such property in the event of subsequent annexation to the city. The method of accomplishing such prezoning shall be as provided by this chapter for zoning within the city. Such zoning shall become effective at the same time that the annexation becomes effective.

Pursuant to Section 54790, those cities subject to such provision shall complete prezoning proceedings as required by law.

If a city has not prezoned territory which is annexed, it may adopt an interim ordinance in accordance with the provisions of Section 65858.

SEC. 23. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because the Legislature finds and declares that there are no new duties, obligations, or responsibilities imposed on local government by this act that require reimbursement. 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 1133

An act to amend Section 11018.5 of the Business and Professions Code, to amend Sections 50515 and 50530 of, and to add Section 50003.5 to, the Health and Safety Code, relating to housing, and making an appropriation therefor.

[Approved by Governor September 26, 1980. Filed with  
Secretary of State September 26, 1980 ]

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

SECTION 1. Section 11018.5 of the Business and Professions Code is amended to read:

11018.5. With respect to the subdivisions and interests of the type described in Section 11004.5, and in addition to the other grounds for denial of a public report as set forth in this code, the commissioner shall issue a public report if the commissioner finds the following with respect to any such subdivision or interest:

(a) (1) Reasonable arrangements have been made to assure completion of the subdivision and all offsite improvements included in the offering.

(2) If the condominium or community apartment project, stock cooperative or planned development, or premises of facilities within the common area are not completed prior to the issuance of a final subdivision public report on the project, the subdivider shall specify a reasonable date for completion and shall comply with one of the following conditions:

(A) Arranges for lien and completion bond or bonds in an amount and subject to such terms, conditions and coverage as the commissioner may approve to assure completion of the improvements lien free.

(B) All funds from the sale of lots or parcels or such portions thereof as the commissioner shall determine are sufficient to assure construction of the improvement or improvements, shall be impounded in a neutral escrow depository acceptable to the commissioner until the improvements have been completed and all applicable lien periods have expired; provided, however, the commissioner determines the time for the completion is reasonable.

(C) An amount sufficient to cover the costs of construction shall be deposited in a neutral escrow depository acceptable to the commissioner under a written agreement providing for disbursements from such escrow as work is completed.

(D) Such other alternative plan as may be approved by the commissioner.

(b) The deeds, conveyances, leases, subleases, or instruments or assignment to be used are adequate to transfer to the purchasers the legal interests and uses which the owner or subdivider represents the purchasers will receive.

(c) After transfer of title to the first lot, apartment, or condominium in the subdivision to any purchaser, the provisions of the declaration of restrictions, articles of incorporation, bylaws, management contracts (and the provisions of any and all other documents establishing, in whole or in part, the plan for use, enjoyment, maintenance, and preservation of the subdivision) as last submitted to the commissioner prior to issuance of the final public report, shall be binding upon the purchaser and occupant of every other lot, apartment, or condominium in the subdivision, including, except with regard to a limited-equity housing cooperative or a time-share project, purchasers acquiring title by foreclosure, whether judicial or nonjudicial, or by deed in lieu thereof, under any mortgage or deed of trust, whether or not the mortgage or deed of trust was recorded prior to recordation of the covenants, conditions and restrictions applicable to such first lot, apartment, or condominium.

(d) Reasonable arrangements have been made for delivery of control over the subdivision and all offsite land and improvements included in the offering, to the purchasers of lots, apartments, or condominiums in such subdivision.

(e) Reasonable arrangements have been or will be made as to the interest of each of the purchasers of lots, apartments, or condominiums in the subdivision with respect to the management, maintenance, preservation, operation, use, right of resale, and control of their lots, apartments, or condominiums, and such other areas or interests, whether or not within, or pertaining to, areas within the boundaries of the subdivision, as have been or will be made subject to the plan of control proposed by the owner and subdivider, and which are included in the offering.

“Purchaser,” as used in this section, shall include within its meaning a lessee of the legal interests described in Section 11003 of this code.

SEC. 2. Section 50003.5 is added to the Health and Safety Code, to read:

50003.5. The Legislature finds and declares that the shortage of adequate student housing is detrimental to those communities in which college and university campuses are located, causing in particular substantial upward pressure on rents, housing shortages, conversion of family housing to student use, deterioration of housing stock, and generally unfavorable housing conditions under which students must pursue their education.

It is the intent of the Legislature, in enacting this section, to encourage the growth and formation of student-run and owned nonprofit housing cooperatives. Such student cooperatives shall be eligible for the applicable policies and programs provided pursuant to this division.

SEC. 3. Section 50515 of the Health and Safety Code is amended to read:

50515. (a) “Revolving loan fund” means the Housing

Predevelopment Loan Fund which is replenished continuously by repayments of principal on loans made from the fund.

(b) "Predevelopment loan" means a loan for required expenses, other than administrative and construction, which are incurred by local agencies and nonprofit corporations in the process of, and prior to, securing long-term financing for production or rehabilitation of assisted housing, and which are recoverable once long-term financing is obtained. Predevelopment loans may include, but are not limited to loans covering costs associated with land purchase or options to buy land, with professional services such as architectural, engineering, or legal services, with permit or application fees, and with bonding, site preparation, related water or sewer development, or material expenses. In addition, such loan funds may be deposited in banks as compensating balances to establish lines of credit for participating nonprofit corporations.

(c) "Nonprofit corporation" means an entity incorporated pursuant to Part 1 (commencing with Section 9000) of Division 2 of Title 1 of the Corporations Code, a cooperative housing corporation which is a stock cooperative, as defined by Section 11003.2 of the Business and Professions Code, a limited equity housing cooperative, or a nonprofit student cooperative organized for the purpose of providing housing to low-income students and their families.

SEC. 4. Section 50530 of the Health and Safety Code is amended to read:

50530. As used in this chapter:

(a) "Loan" means a loan for required expenses, other than administrative and construction, which are incurred by local agencies and nonprofit corporations in the process of, and prior to, securing long-term financing for construction or rehabilitation of assisted housing, and which are recoverable once long-term financing is obtained. Purposes for which loans may be made include, but are not limited to, costs of, or associated with, land purchase or options to buy land, professional services such as architectural, engineering, or legal services, permit or application fees, and bonding, site preparation, and related water or sewer development. In addition, such loans may be made for an extension of an option or advance previously obtained. Such loan funds may be deposited in banks as compensating balances to establish lines of credit for participating nonprofit corporations.

(b) "Loan fund" means the Urban Housing Development Loan Fund.

(c) "Nonprofit corporation" means an entity incorporated pursuant to Part 1 (commencing with Section 9000) of Division 2 of Title 1 of the Corporations Code, a cooperative housing corporation which is a stock cooperative, as defined by Section 11003.2 of the Business and Professions Code, a limited-equity housing cooperative as defined in Section 33007.5 of this code, or a nonprofit student housing cooperative.

## CHAPTER 1134

An act to amend Sections 9888.1, 9888.2, 9888.3, 9889.17, 9889.18, 9889.52, 9889.56, 9889.58, and 9889.60 of the Business and Professions Code, to add Article 6 (commencing with Section 41970) to Chapter 3 of Part 4 of Division 26 of the Health and Safety Code, and to add Section 12953 to the Vehicle Code, relating to vehicles.

[Approved by Governor September 26, 1980 Filed with  
Secretary of State September 26, 1980 ]

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

**SECTION 1.** Section 9888.1 of the Business and Professions Code is amended to read:

9888.1. As used in this chapter:

(a) "Station" means a lamp adjusting station, a brake adjusting station, or a motor vehicle pollution control device installation and inspection station.

(b) "Licensed station" means a station licensed by the bureau pursuant to this chapter.

(c) "Licensed installer" means a person licensed by the bureau for installing, repairing, inspecting, or recharging motor vehicle pollution control devices, or performing emissions related repairs pursuant to Section 9889.60 or 9889.74, in licensed stations.

(d) "Licensed adjuster" means a person licensed by the bureau for adjusting lamps in licensed lamp adjusting stations or for adjusting brakes in licensed brake adjusting stations.

**SEC. 2.** Section 9888.2 of the Business and Professions Code is amended to read:

9888.2. The director shall adopt regulations which prescribe the equipment and other qualifications of any station as a condition to licensing the station as an official station for adjusting lamps or brakes and for installing, repairing, inspecting, or recharging motor vehicle pollution control devices and shall prescribe the qualifications of adjusters and installers employed therein.

**SEC. 3.** Section 9888.3 of the Business and Professions Code is amended to read:

9888.3. No person shall operate a motor vehicle pollution control device installation and inspection station or an "official" lamp or brake adjusting station unless a license therefor has been issued by the director. No person shall issue, cause or permit to be issued, any certificate purported to be an official lamp adjustment certificate unless he is a licensed lamp adjuster, an official brake adjustment certificate unless he is a licensed brake adjuster, or a certificate of compliance unless he is a licensed motor vehicle pollution control device installer, except as provided in Section 9889.56 or 9889.74.

**SEC. 4.** Section 9889.17 of the Business and Professions Code is amended to read:

9889.17. Any person may install a motor vehicle pollution control device; however, no person who is not a licensed installer shall install such a device for compensation. No such device shall be deemed to meet the requirements of the Vehicle Code or of Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, and the rules and regulations of the State Air Resources Board, unless it has been inspected and a certificate of compliance has been issued pursuant to Section 9889.18, 9889.56, or 9889.74.

SEC. 5. Section 9889.18 of the Business and Professions Code is amended to read:

9889.18. (a) Whenever a licensed installer in a licensed station, in conformity with the instructions of the director, inspects or repairs a motor vehicle for pollution control, or installs a motor vehicle pollution control device, and determines that the vehicle conforms with the requirements of Section 27157 or 27157.5 of the Vehicle Code or Part 5 (commencing with Section 43000) of Division 26 of the Health and Safety Code, and the rules and regulations of the State Air Resources Board, a certificate of compliance shall be issued to the owner or driver of the vehicle except when such work is performed in accordance with the requirements of Section 9889.60 and resulting from a recommendation of the department pursuant to Section 9889.51 or 9889.74. The certificate of compliance shall contain provisions for the date of issuance, the make and registration number of the vehicle, the name of the owner of the vehicle, and the official designation of the station. It is unlawful for any person, other than a licensed installer in a licensed station, to sign or issue a certificate of compliance required by this article.

(b) A licensed installer shall not issue a certificate of compliance for any motor vehicle or motor vehicle with a motor vehicle engine which is not certified by the state board, and which is the subject of a transaction prohibited by Section 43152 or 43153 of the Health and Safety Code.

(c) With respect to a motor vehicle or motor vehicle with a new motor vehicle engine not certified by the state board which is in violation of Article 1.5 (commencing with Section 43150) of Chapter 2 of Part 5 of Division 26 of the Health and Safety Code, but which is not the subject of a transaction prohibited by Section 43152 or 43153 of that code, a licensed installer shall issue a certificate of noncompliance. The certificate of noncompliance shall contain the same information as a certificate of compliance but also shall indicate the basis for nonconformity and be of a distinctive form or style. The licensed installer shall send copies of any such certificate of noncompliance issued to the State Air Resources Board.

SEC. 6. Section 9889.52 of the Business and Professions Code is amended to read:

9889.52. (a) The department shall administer the inspection program adopted pursuant to this chapter, and shall hire, train, and organize the staff necessary to effect this purpose.

(b) The department shall conduct a series of orientation or

training seminars to familiarize automobile mechanics and owners of motor vehicles subject to the provisions of this chapter with procedures and forms to be utilized in the inspection program and, in particular, with maintenance and repair procedures recommended by the department for performance on vehicles failing to pass inspections. Such seminars shall be conducted at locations in each of the counties subject to this chapter selected on the basis of convenience of participants' access. Any licensed installer employed by a motor vehicle pollution control device installation and inspection station licensed pursuant to Section 9888.3, shall be required to attend an orientation or training seminar conducted by the department prior to performing the maintenance or repairs of a motor vehicle which were recommended by the department pursuant to Section 9889.51 to correct the malfunction or misadjustment responsible for the vehicle's failure of an inspection conducted pursuant to this chapter.

(c) The department shall acquire and construct such facilities as are necessary to establish inspection stations, except when the facilities are acquired and constructed by a public or private entity under contract with the state board pursuant to Section 9889.54. However, in the interests of expediency and economy, whenever practicable, existing state installations, surplus state property, and leased property shall be utilized. A private entity operating any portion of the inspection program by contract with the state board pursuant to Section 9889.54 shall not have any financial interest in any automotive repair station located within the geographical area in which the program is being conducted.

(d) The department shall ascertain whether a sufficient number of qualified persons are available to perform the motor vehicle repairs and maintenance which may be recommended by the department pursuant to motor vehicle inspection program established pursuant to this chapter. Notwithstanding the schedule in Section 9889.55, the program shall not be implemented until the department determines that there are enough qualified persons available to perform such repairs and maintenance.

(e) Notwithstanding any other provision of this section, the department may license any owner of a fleet of 10 or more motor vehicles subject to this chapter, who so elects, to implement and conduct the inspections of fleet vehicles required by this chapter, on his own premises utilizing his own facilities or personnel, or both, subject to the following conditions:

(1) The owner's inspection system shall conform, in the department's determination, with all provisions of Section 9889.51, and with all rules and regulations adopted by the department pursuant thereto. Such regulations shall provide for adequate onsite inspection by representatives of the department and the State Air Resources Board. The department shall consult with the State Air Resources Board prior to adopting such regulations.

(2) The license shall be suspended or rescinded by the

department whenever the department determines, on the basis of random spot checks of the owner's inspection system and fleet vehicles, that the system fails so to conform or that certificates of compliance or waiver have been issued by the owner in violation of regulations adopted by the department. Any owner licensed to conduct his own inspections under this subdivision shall be deemed to have consented to provide the department with whatever access, information, and other cooperation the department reasonably determines are necessary to facilitate the random spot checks required by this paragraph.

(3) The department may authorize the owner to implement and conduct the inspections required by this chapter for vehicles owned, as part of a fleet of 10 or more vehicles, through another person, subject to the conditions set forth in paragraphs (1) and (2) of this subdivision. Such other persons shall be identified in the owner's request for authorization to conduct inspections, and shall be deemed to have consented to provide whatever access, information, and cooperation the department reasonably determines is necessary to facilitate the random spot checks required by this section.

(4) In the case of any new or used motor vehicle dealer, the authorization shall terminate upon implementation of the renewal of registration phase of the program pursuant to subdivision (c) of Section 9889.55.

SEC. 7. Section 9889.56 of the Business and Professions Code is amended to read:

9889.56. (a) The department shall issue a certificate of compliance or noncompliance, as defined in Section 9889.18, to satisfy requirements set forth in Sections 4000.1 and 4000.2 of the Vehicle Code for each motor vehicle subject to the provisions of this chapter under any of the following situations:

(1) The motor vehicle passes an inspection conducted by the department pursuant to subdivision (b) or (c) of Section 9889.55.

(2) The motor vehicle is owned by any governmental entity or public utility and passes an inspection conducted by the department pursuant to subdivision (e) of Section 9889.55.

(b) Any motor vehicle which fails to pass any required inspection may undergo maintenance or repair and be reinspected at the request of the owner. Such motor vehicle shall, however, be required to pass reinspection prior to its registration, except that the department may waive that requirement if the motor vehicle has been repaired or serviced by a licensed installer at a motor vehicle pollution control device installation and inspection station licensed pursuant to Section 9888.3.

(c) Notwithstanding any other provision of law, the department shall waive the certificate of compliance requirements, and shall issue a certificate of waiver to fulfill the requirements set forth in Sections 4000.1 and 4000.2 of the Vehicle Code, for a motor vehicle under any of the following situations:

(1) The motor vehicle does not satisfy the requirements of

paragraph (1) of subdivision (b) of Section 9889.51, fails reinspection after receiving a low-emission tuneup performed to specifications established by the department pursuant to Section 9889.60, and is in need of further maintenance and repairs which the department determines, based upon the estimate of a licensed installer at a motor vehicle pollution control device installation and inspection station licensed pursuant to Section 9888.3, will exceed maximum repair costs which the department may establish but which in no event shall be less than the amount applicable under paragraph (2) of subdivision (c) of this section. In establishing such maximum repair costs, the department shall consider such factors as the age of the vehicle and typical costs of repairing or replacing emission control devices.

Nothing in this paragraph shall be deemed to require additional data processing by the department, or its contractors or subcontractors.

(2) The motor vehicle satisfies the requirements of paragraph (1) of subdivision (b) of Section 9889.51, fails reinspection after receiving a low-emission tuneup performed to specifications established by the department pursuant to Section 9889.60, and is in need of further maintenance and repairs, excluding those necessary to repair or replace a defective, altered, or missing emission control device required by state or federal law, which the department determines, based upon the estimate of a licensed installer at a motor vehicle pollution control device installation and inspection station licensed pursuant to Section 9888.3, will cost more than fifty dollars (\$50). The department may increase that amount to seventy-five dollars (\$75), taking into consideration, among other things, the increase in the cost of living as reflected in the Consumer Price Index, as published by the United States Bureau of Labor Statistics.

(d) With respect to a motor vehicle or motor vehicle with a new motor vehicle engine not certified by the state board which is in violation of Article 1.5 (commencing with Section 43150) of Chapter 2 of Part 5 of Division 26 of the Health and Safety Code, but which is not the subject of a transaction prohibited by Section 43152 or 43153 of that code, the department shall issue a certificate of noncompliance. The certificate of noncompliance shall contain the same information as a certificate of compliance but also shall indicate the basis for nonconformity and be of a distinctive form or style. The department shall send copies of any such certificate of noncompliance issued to the State Air Resources Board.

(e) A fleet owner authorized to conduct inspections pursuant to subdivision (e) of Section 9889.52 shall issue certificates of compliance for motor vehicles which pass the inspection described in subdivision (e) of Section 9889.52, shall issue certificates of waiver for motor vehicles which satisfy the requirements of subdivision (c), shall issue certificates of noncompliance for motor vehicles as specified in subdivision (d), and shall pay a fee as established by the department for each certificate issued.

SEC. 8. Section 9889.58 of the Business and Professions Code is amended to read:

9889.58. The department shall compile and maintain records of maintenance and repairs performed pursuant to Section 9889.56 by motor vehicle pollution control device installation and inspection stations licensed pursuant to Section 9888.3. Information maintained in such records shall include, for each such station, all of the following:

(a) The number of maintenance and repair operations performed on motor vehicles which failed to pass an inspection conducted by the department pursuant to the provisions of this chapter.

(b) The correlation between maintenance and repairs recommended by the department pursuant to subdivision (b) of Section 9889.51 and maintenance and repairs performed.

(c) The percentage of maintained and repaired vehicles which passed reinspection.

(d) The charges assessed for such maintenance and repairs.

(e) Any other information deemed essential by the department.

A written summary of such information applicable to stations in the vicinity of each inspection station shall be published quarterly by the department and made available upon request to the owner of each motor vehicle subject to this chapter which fails to pass inspection at the time the owner is informed of such failure.

SEC. 9. Section 9889.60 of the Business and Professions Code is amended to read:

9889.60. The department shall, with the cooperation of the State Air Resources Board and after consultation with automobile manufacturers, establish specifications and procedures for the motor vehicle maintenance and repairs recommended by the department pursuant to Section 9889.51 and for low-emission motor vehicle engine tuneups. Such specifications and procedures shall be followed whenever any motor vehicle maintenance, repairs, or engine tuneup is performed by a licensed installer working in a motor vehicle pollution control device installation and inspection station licensed pursuant to Section 9888.3. Such license of any dealer or station who does not follow such specifications and procedures shall be subject to suspension by the department.

SEC. 10. Article 6 (commencing with Section 41970) is added to Chapter 3 of Part 4 of Division 26 of the Health and Safety Code, to read:

#### Article 6. Gasoline Cargo Tanks

41970. (a) As an alternative to the criminal penalties provided in Article 3 (commencing with Section 42400) of Chapter 4 in any case involving a gasoline cargo tank subject to Article 5 (commencing with Section 41950), if it appears that any person has violated any provision of this part, or any order, rule, or regulation of the state board or of a district adopted pursuant to this part, and all of the

conditions set forth in subdivision (b) are met and the investigating officer or official decides to initiate enforcement action, he or she may prepare, in triplicate, and the alleged violator shall sign, a written notice to appear containing the following statement: "Cited in accordance with Section 41970 of the Health and Safety Code." If the arrested person presents, by mail or in person, proof of correction as prescribed in Section 41971 on or before the date on which he or she promised to appear, the court shall dismiss the applicable charges.

(b) Use of the notice to appear pursuant to this article is authorized when both of the following conditions exist:

(1) The violation does not evidence intentional avoidance or persistent neglect.

(2) The violation has not presented and does not present an immediate safety hazard.

41971. Proof of correction shall consist either of a verification pursuant to Section 41972 or of a certification by an authorized representative of one of the following agencies that the alleged violation has been corrected:

(a) The state board.

(b) The State Fire Marshal.

(c) The district board.

41972. (a) Proof of correction by verification shall consist of a verification by the owner or operator of the gasoline cargo tank that the alleged violation has been corrected. The owner or operator shall notify the agency which issued the notice to appear at least 24 hours in advance of the time when the correction may be inspected, specifying the location of the gasoline cargo tank.

If a representative of the issuing agency fails to appear to make the inspection at the designated place and time, the owner or operator shall prepare and submit a verification under penalty of perjury that the alleged violation has been corrected.

The state board shall adopt regulations for the making and submission of verifications pursuant to this section.

41973. Each day that a gasoline cargo tank, which is the subject of a notice to appear issued pursuant to this article, is operated without correction of such violation subsequent to the date of the notice shall constitute a separate offense subject to the penalties provided in Article 3 (commencing with Section 42400) of Chapter 4.

41974. (a) Except as provided in subdivision (b), Article 3 (commencing with Section 42400) of Chapter 4 shall apply to any gasoline cargo tank subject to Article 5 (commencing with Section 41950).

(b) The other provisions of this article shall not apply to any gasoline cargo tank violation of that Article 5 occurring prior to January 1, 1981.

SEC. 11. Section 12953 is added to the Vehicle Code, to read:

12953. In any circumstances involving accidents or violations in

which the engineer or any other crewmember of any train is detained by state or local police, the engineer or any other crew member shall not be required to furnish a motor vehicle operator's license, nor shall any citation involving the operation of a train be issued against the motor vehicle operator's license of the engineer or any other crew member of the train.

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 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.

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#### CHAPTER 1135

An act to add Article 9.5 (commencing with Section 31143) to Chapter 1 of Part 5 of Division 12 of the Water Code, relating to county water districts.

[Approved by Governor September 26, 1980. Filed with  
Secretary of State September 26, 1980]

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

SECTION 1. Article 9.5 (commencing with Section 31143) is added to Chapter 1 of Part 5 of Division 12 of the Water Code, to read:

#### Article 9.5. San Lorenzo Valley Water District

31143. In addition to the other powers provided by law, the San Lorenzo Valley Water District, Santa Cruz County, shall have all of the following powers and shall promptly and effectively exercise such powers as may be appropriate to ensure that onsite waste water disposal systems, as defined in Section 6952 of the Health and Safety Code, along the San Lorenzo River do not pollute the river, its tributaries, and ground water:

(a) To carry on technical and other investigations, examinations, or tests, of all kinds, make measurements, collect data, and make analyses, studies, and inspections pertaining to the water supply, use of water, water quality, nuisance, pollution, waste, and contamination of water within the district as such activities relate to the use of public, combined, or private onsite waste water disposal systems.

(b) To require all persons discharging from onsite waste water

disposal systems within the district to register the system with the district, and to charge annual registration fees in such amount as will defray all or a portion of the costs of exercising the powers provided in this article. Applications for permits for onsite waste water disposal systems within the district to the County of Santa Cruz shall be referred to the district for the district's review and comment.

(c) To adopt and enforce regulations for onsite waste water disposal systems within the district, after holding a public hearing on reasonable notice thereof, to control and enhance the quality of the ground and surface waters of the district, in order to eliminate the pollution, waste, and contamination of water flowing into, through, or originating within watercourses, both natural and artificial, within the district, to prevent contamination, nuisance, pollution, or otherwise rendering unfit for beneficial use the surface or ground water used or useful in the district, and to expend such amounts as are necessary to exercise such powers from the funds of the district. Such regulations shall not be in conflict with state law or county ordinances.

31143.1. The district shall immediately do all such acts as are reasonably necessary to secure compliance with any federal, state, regional, or local law, order, regulation, or rule relating to water pollution or discharges from onsite waste water disposal systems within the area of the district. For such purpose, any authorized representative of the district, upon presentation of his credentials, or, if necessary under the circumstances, after obtaining an inspection warrant pursuant to Title 13 (commencing with Section 1822.50) of Part 3 of the Code of Civil Procedure, or with the permission of the owner, shall have the right of entry to any premises on which an onsite waste water disposal system is located for the purpose of inspecting such system, including securing samples of discharges therefrom, or any records required to be maintained in connection therewith by federal, state, or local law, order, regulation, or rule.

31143.2. (a) Violation of any of the provisions of a district regulation adopted pursuant to Section 31143 may be abated as a public nuisance by the district, and the board of directors may by regulation establish a procedure for the abatement of such a nuisance and to assess the cost of such abatement to the violator. If the violator maintains the nuisance upon real property in which he has a fee title interest, the assessment shall constitute a lien upon such real property.

(b) The amount of any costs incurred by the district in abating such a nuisance upon real property shall be added to the annual taxes next levied upon the real property subject to abatement and shall constitute a lien upon that real property as of the same time and in the same manner as does the tax lien securing such annual taxes. All laws applicable to the levy, collection, and enforcement of district taxes shall be applicable to such assessment, except that if any real property to which such lien would attach 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 attached thereon, prior to the date on which the first installment of such taxes would become delinquent, then a lien which would otherwise be imposed by this section shall not attach to such real property and the delinquent and unpaid charges relating to such property shall be transferred to the unsecured roll for collection. Any amounts of such assessments collected are to be credited to the funds of the district from which the costs of abatement were expended.

31143.3. (a) The owner of any real property upon which is located an onsite waste water disposal system, which system is subject to abatement as a public nuisance by the district, may request the district to replace or repair, as necessary, such system. If replacement or repair is feasible, the board of directors, in its sole discretion, may provide for the necessary replacement or repair work.

(b) The person or persons employed by the board of directors to do the work shall have a lien, subject to the provisions of subdivision (b) of Section 31143.2, for work done and materials furnished, and the work done and materials furnished shall be deemed to have been done and furnished at the request of the owner. The district, in the discretion of the board of directors, may pay all, or any part, of the cost or price of the work done and materials furnished; and, to the extent that the district pays the cost or price of the work done and materials furnished, the district shall succeed to and have all the rights, including, but not limited to, the lien, of such person or persons employed to do the work against the real property and the owner.

(c) As an alternative power to the enforcement of the lien provided in subdivision (b), the board of directors may, by ordinance adopted by two-thirds vote of the members, fix the costs of replacement or repair; fix the times at which such costs shall become due; provide prior to the replacement or repair for the payment of the costs in installments over a period not to exceed 15 years; establish a rate of interest not to exceed 8 percent per annum, to be charged on the unpaid balance of the costs; and provide that the amount of the costs and the interest shall constitute a lien, subject to the provisions of subdivision (b) of Section 31143.2, against the respective lots or parcels upon which the work is done.

31143.4. In order to avoid duplication, either the district or the County of Santa Cruz may contract with the other party for any services or activities authorized to be performed pursuant to this article.

31143.5. Any violation of a regulation of the district adopted pursuant to Section 31143 is a misdemeanor punishable by a fine not to exceed five hundred dollars (\$500), or imprisonment not to exceed 60 days, or by both such fine and imprisonment. Each day of such a violation shall constitute a separate offense. Any violation or threatened violation of a regulation of the district may also be enjoined by civil suit.

SEC. 2. The Legislature hereby finds and declares that a unique situation exists within the San Lorenzo Valley Water District because of a large transient population, extensive use of private septic systems, land topography and population density that create special problems for sewage treatment and disposal, remoteness to other urbanized areas in the county, an immediate need to meet water quality control laws and the health and safety requirements of the district inhabitants, and the existence of a public agency capable of performing such needed public service without the need for proliferation of new agencies, with their attendant costs, for such public service. The Legislature further finds and declares that a general act cannot be made applicable to this unique situation and that it is, therefore, necessary to enact this special act relating to the San Lorenzo Valley Water District.

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.

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## CHAPTER 1136

An act to amend Sections 50003, 50515, 50517, 50517.5, 50530, 50531, 50533, 50901, 50902, and 51005 of, to add Sections 50007.5, 50082.5, 50082.7, 50510.5, 50531.5, 51005.5, and 51853.6 to, to add Chapter 6.5 (commencing with Section 51320) to Part 3 of Division 31 of, the Health and Safety Code, and to amend Sections 987.65 and 987.71 of the Military and Veterans Code, relating to housing.

[Approved by Governor September 26, 1980. Filed with  
Secretary of State September 26, 1980.]

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

SECTION 1. This act shall be known and may be cited as the Manufactured Housing Assistance Act of 1980.

SEC. 2. Section 50003 of the Health and Safety Code is amended to read:

50003. (a) The Legislature finds and declares that, as a result of public actions involving highways, public facilities, and urban renewal projects, and as a result of poverty and the spread of slum conditions and blight to formerly sound neighborhoods, there exists within the urban and rural areas of the state a serious shortage of decent, safe, and sanitary housing which persons and families of low

or moderate income, including the elderly and handicapped, can afford. This situation creates an absolute present and future shortage of supply in relation to demand, as expressed in terms of housing needs and aspirations, and also creates inflation in the cost of housing, by reason of its scarcity, which tends to decrease the relative affordability of the state's housing supply for all its residents.

(b) To provide a decent home and suitable living environment for every California family is the basic housing goal of state government. The Legislature recognizes that the California Statewide Housing Plan shows the magnitude of this goal by documenting a substantial need for rehabilitation of existing housing, demolition and replacement of severely dilapidated housing, construction of new apartments, houses, and mobilehomes, construction or rehabilitation of housing for year-round hired and seasonal farmworkers as well as housing for migrant farmworkers, and the provision of financial assistance to a substantial number of lower income households in order to meet standards for affordable rent or housing cost. Private enterprise and investment, without governmental assistance, cannot economically achieve the needed construction of decent, safe, and sanitary housing at rents or purchase prices which persons and families of low or moderate income can afford, nor can it provide the urgently needed rehabilitation of existing housing. The Legislature also recognizes the need to provide assistance to persons and families of low and moderate income and very low income households to purchase manufactured housing and to cooperatively own the mobilehome parks in which they reside and the need to increase the supply of manufactured housing affordable to persons and families of low and moderate income and very low income households.

(c) The shortage of decent, safe, and sanitary housing is inimical to the safety, health, and welfare of the residents of the state and sound growth of its communities.

(d) In order to remedy such shortages, it is the intent of the Legislature in enacting this division to provide a comprehensive and balanced approach to the solution of housing problems of the people of this state.

(e) This section shall not be interpreted as requiring state actions to meet housing goals without legislative authorization, or as requiring such legislative action.

SEC. 3. Section 50007.5 is added to the Health and Safety Code, to read:

50007.5. The Legislature finds and declares that manufactured housing, by virtue of its production costs and sales prices can provide a source of decent, safe, and affordable shelter for persons and families of low and moderate income. The Legislature finds and declares that the availability of manufactured housing has been limited by inadequate sites for such manufactured housing and by the costs of financing the purchase of such housing. The Legislature finds and declares that, if California is to effectively meet the housing needs of persons and families of low and moderate income, it must

encourage increased manufactured housing production, new manufactured housing developments, and the purchase of new manufactured housing by persons and families of low and moderate income. Therefore, it is the intent of the Legislature that the Department of Housing and Community Development and the California Housing Finance Agency, in implementing the programs established by this division, as amended by the Manufactured Housing Assistance Act of 1980, shall encourage increased availability and affordability of manufactured housing for persons and families of low and moderate income.

SEC. 4. Section 50082.5 is added to the Health and Safety Code, to read:

50082.5. "Manufactured housing" means a mobilehome, as defined by Section 18008, and factory-built housing, as defined in Section 19971.

SEC. 5. Section 50082.7 is added to the Health and Safety Code, to read:

50082.7. "Mobilehome park" shall have the same meaning as such term is defined in Section 18214.

SEC. 6. Section 50510.5 is added to the Health and Safety Code, to read:

50510.5. The department may provide technical assistance to housing sponsors who are involved in any of the following activities:

(a) The development of cooperatively owned mobilehome parks for persons and families of low and moderate income.

(b) The development of mobilehome parks in which the rents charged for spaces are affordable to and occupied by persons and families of low and moderate income.

(c) The development of manufactured housing subdivisions in which lots and mobilehomes will be purchased by persons and families of low and moderate income.

The department may also provide technical assistance to cooperatives and nonprofit housing sponsors who are involved in the purchase of an existing mobilehome park which is placed on the market and which will be occupied primarily by persons and families of low and moderate income.

SEC. 7. Section 50515 of the Health and Safety Code is amended to read:

50515. As used in Section 50516 and Section 50517:

(a) "Housing" includes, but is not limited to, manufactured housing.

(b) "Revolving loan fund" means the Housing Predevelopment Loan Fund which is replenished continuously by repayments of principal on loans made from the fund.

(c) "Predevelopment loan" means a loan for required expenses, other than administrative and construction, which are incurred by local agencies and nonprofit corporations in the process of, and prior to, securing long-term financing for production or rehabilitation of assisted housing, and which are recoverable once long-term

financing is obtained. Predevelopment loans may include, but are not limited to loans covering costs associated with land purchase or options to buy land, with professional services such as architectural, engineering, or legal services, with permit or application fees, and with bonding, site preparation, related water or sewer development, or material expenses. In addition, such loan funds may be deposited in banks as compensating balances to establish lines of credit for participating nonprofit corporations.

(d) "Nonprofit corporation" means an entity incorporated pursuant to Part 1 (commencing with Section 9000) of Division 2 of Title 1 of the Corporations Code or a cooperative housing corporation which is a stock cooperative, as defined by Section 11003.2 of the Business and Professions Code.

SEC. 8. Section 50517 of the Health and Safety Code is amended to read:

50517. The Housing Predevelopment Loan Fund shall be administered by the director and such persons within the department as the director may designate.

The revolving loan fund shall be administered in accordance with the following:

(a) The department may not commit more than 20 percent of the total moneys appropriated to the fund to any single borrower at any point in time.

(b) The department shall require adequate security for all loans made from the revolving loan fund. The term "adequate security" includes, but need not be limited to, a first lien on any property purchased with loan fund moneys, a promissory note, or an assignment of a land option except that in the case of Indian Trust Land a mortgage on a leasehold interest in the property shall be acceptable.

(c) The department shall, from time to time, direct the State Treasurer to invest moneys of the revolving loan fund which are not required for its current needs in such eligible securities as the department shall designate from among those specified in Section 16430 of the Government Code. The department may direct the State Treasurer to deposit moneys from the revolving loan fund in interest-bearing accounts in state or national banks or other financial institutions having principal offices in this state. The department may alternatively require the transfer of moneys in the revolving loan fund to the Surplus Money Investment Fund for investment pursuant to Article 4 (commencing with Section 16470) of Chapter 3, Part 2, Division 4, Title 2 of the Government Code. All interest, dividends, and pecuniary gains from such investments or deposits shall accrue to the Housing Predevelopment Loan Fund.

(d) In complying with the provisions of Section 50408, the department shall also report annually to the Legislature and the Governor on the administration of the revolving loan fund. Such report shall include, but need not be limited to, (1) the number of units assisted, (2) the average income of households assisted and the

distribution of annual incomes among assisted households, (3) the rents in assisted units, (4) the number and amount of loans made to each local governmental agency or nonprofit corporation in the preceding year, (5) data on the number of delinquencies and defaults, (6) recommendations, as needed, to improve operations of the revolving loan fund, (7) the number of loans made at interest rates lower than the average rate returned by the investment of state funds through the Pooled Money Investment Board for the past five fiscal years and the income of households assisted by such loans, (8) the public transportation services conveniently available to assisted households, and (9) the number of manufactured housing units assisted under Section 50516 and this section.

(e) (1) Except as provided in paragraph (2) of this subdivision, all loans made from the Housing Predevelopment Loan Fund shall bear interest. The rate of interest for any loan shall be computed annually, and shall be the same as the average rate returned by the investment of state funds through the Pooled Money Investment Board for the five fiscal years immediately preceding the year in which the loan payment is made.

(2) The department may reduce or eliminate interest on the loans, if, in the exercise of sound discretion, the department determines such action is necessary for the provision of decent housing to very low income households, as described in Section 50105, provided, however, that if the department eliminates interest on a loan, it shall charge a loan origination fee of not to exceed 2 percent of the loan amount.

(f) The department may make loans for the development of mobilehome parks and manufactured housing subdivisions.

SEC. 9. Section 50517.5 of the Health and Safety Code is amended to read:

50517.5. (a) The department shall establish a Farmworker Housing Grant Program under which, subject to the availability of funds therefor, grants shall be made to local public entities and nonprofit corporations for the construction or rehabilitation of housing for agricultural employees and their families. Under such program, grants may also be made for the purchase of land in connection with housing assisted pursuant to this section and for the construction and rehabilitation of related support facilities necessary to such housing. No part of a grant made pursuant to this section may be used for project organization or planning.

Such program shall be administered by the Director of Housing and Community Development and such officers and employees of the department as he may designate. It is the intent of the Legislature that, in administering the program, the director shall facilitate, to the greatest extent possible, the construction and rehabilitation of permanent dwellings for year-round occupancy and ownership by agricultural employees, including ownership of the sites upon which such dwellings are located.

(b) The Farmworker Housing Grant Fund is hereby created in

the State Treasury. All money in the fund is continuously appropriated to the department for making grants pursuant to this section and for costs incurred by the department in administering such grant program.

(c) Grants made pursuant to this section shall be matched by grantees with at least equal amounts of federal moneys, other cash investments, or in-kind contributions.

(d) With respect to the supervision of grantees, the department shall do the following:

(1) Establish minimum capital reserves to be maintained by grantees.

(2) Fix and alter from time to time a schedule of rents such as may be necessary to provide residents of housing assisted pursuant to this section with affordable rents to the extent consistent with the maintenance of the financial integrity of the housing project. No grantee shall increase the rent on any unit constructed or rehabilitated with the assistance of funds granted pursuant to this section without the prior permission of the department, which shall be given only if the grantee affirmatively demonstrates that such increase is required to defray necessary operating costs or avoid jeopardizing the fiscal integrity of the housing project.

(3) Determine standards for, and control selection by grantees of, tenants and subsequent purchasers of housing constructed or rehabilitated with the assistance of funds granted pursuant to this section.

(4) Require as a condition precedent to a grant of funds that the grantee be record owner in fee of the assisted real property and that such grantee shall have entered into a written agreement with the department binding upon the grantee and successors in interest to the grantee. The agreement shall include the conditions under which the funds advanced may be repaid. The agreement shall include provisions for a lien on the assisted real property in favor of the State of California for the purpose of securing performance of the agreement. The agreement shall also provide that the lien shall endure until released by the Director of Housing and Community Development.

In the event that funds granted pursuant to this section constitute less than 25 percent of the total development cost or value, whichever is applicable, of a project assisted under this section, the department may adopt, by regulation, criteria for determining the number of units in a project to which the restrictions on occupancy contained in the agreement apply. In no event may such regulations provide for the application of the agreement to a percentage of units in a project which is less than the percentage of total development costs which funds granted pursuant to this section represent.

Contemporaneously with the disbursement of the initial funds to a grantee, the department shall cause to be recorded, in the office of the county recorder of the county in which the assisted real property is located, a notice of lien executed by the Director of

Housing and Community Development. The notice of lien shall refer to the agreement required by this paragraph for which it secures and it shall include a legal description of the assisted real property which is subject to the lien. The notice of lien shall be indexed by the recorder in the Grantor Index to the name of the grantee and in the Grantee Index to the name of the State of California, Department of Housing and Community Development. The department shall adopt by regulation criteria for the determination of the lien period. Such regulation shall take into account whether the property is held by multifamily rental, single-family ownership, or cooperative ownership and whether it is new construction or rehabilitative construction.

Pursuant to regulations adopted by the department, the department is authorized to execute and cause to be recorded in the office of the recorder of the county, in which a notice of lien has been recorded, a subordination of the lien. The regulations adopted by the department shall provide that any subordination of the lien shall not jeopardize the security interest of the state and shall further the interest of farmworker housing. The recitals contained in such subordination shall be conclusive in favor of any bona fide purchaser or lender relying thereon.

(5) Regulate the terms of occupancy agreements to be used in housing assisted pursuant to this section.

(6) Provide bilingual services and publications, or require grantees to do so, as necessary to implement the purposes of this section.

(7) The agreement between the department and the grantee shall provide, among other things, that:

(A) Upon the sale or conveyance of the real property, or any part thereof, for use other than for agricultural employee occupancy, the grantee or its successors shall, as a condition for the release of the lien provided pursuant to paragraph (4), repay to the fund the department's grant funds.

(B) Upon the sale or conveyance of the real property, or any part thereof, for continued agricultural employee occupancy, the transferee shall assume the obligation of the transferor and the real property shall be transferred to the new owner; provided that such person agrees to abide by the agreement entered into between the transferor and the department and that the new owner takes the property subject to the lien provided pursuant to paragraph (4), except that such lien shall at the time of the transfer of the property to the new owner be extended for such additional lien period, as determined by the department pursuant to paragraph (4), and the new owner shall not be credited with the lien period that had run from the time the transferor had acquired the property to the time of transfer to the new owner, unless the department determines that it is in the best interest of the state and consistent with the intent of this section to so credit the lien period to the new owner. However, such lien shall have priority as of the recording date of the lien for

the original grantee, pursuant to paragraph (4) of this subdivision.

(e) The department may do any of the following with respect to grantees:

(1) Through its agents or employees enter upon and inspect the lands, buildings, and equipment of a grantee, including books and records, at any time before, during, or after construction or rehabilitation of units assisted pursuant to this section. However, there shall be no entry or inspection of any unit which is occupied, whether or not any occupant is actually present, without the consent of the occupant.

(2) Supervise the operation and maintenance of any housing assisted pursuant to this section and order such repairs as may be necessary to protect the public interest or the health, safety, or welfare of occupants of the housing.

(f) The department shall include in its annual report required by Section 50408, a current report of the Farmworker Housing Grant Program. Such report shall include, but need not be limited to: (1) the number of households assisted, (2) the average income of households assisted and the distribution of annual incomes among assisted households, (3) the rents paid by households assisted, (4) the number and amount of grants made to each nonprofit corporation and local public entity in the preceding year, (5) the dollar value of funding derived from sources other than the state for each project receiving a grant under this section, and an identification of each such source, (6) recommendations, as needed, to improve operations of the program and respecting the desirability of extending its application to other groups in rural areas identified by the department as having special need for state housing assistance, and (7) the number of manufactured housing units assisted under this section.

(g) As used in this section:

(1) "Nonprofit corporation" means an entity incorporated pursuant to Part 1 (commencing with Section 9000) of Division 2 of Title 1 of the Corporations Code or a stock cooperative as defined in Section 11003.2 of the Business and Professions Code.

(2) "Agricultural employee" has the same meaning as specified in subdivision (b) of Section 1140.4 of the Labor Code.

(3) "Housing" may include, but need not be limited to, conventionally constructed units, and manufactured housing.

SEC. 10. Section 50530 of the Health and Safety Code is amended to read:

50530. As used in this chapter:

(a) "Housing" includes, but is not limited to, manufactured housing.

(b) "Loan" means a loan for required expenses, other than administrative and construction, which are incurred by local agencies and nonprofit corporations in the process of, and prior to, securing long-term financing for construction or rehabilitation of assisted housing, and which are recoverable once long-term

financing is obtained. Purposes for which loans may be made include, but are not limited to, costs of, or associated with, land purchase or options to buy land, professional services such as architectural, engineering, or legal services, permit or application fees, and bonding, site preparation, and related water or sewer development. In addition, such loans may be made for an extension of an option or advance previously obtained. Such loan funds may be deposited in banks as compensating balances to establish lines of credit for participating nonprofit corporations.

(c) "Loan fund" means the Urban Housing Development Loan Fund.

(d) "Nonprofit corporation" means an entity incorporated pursuant to Part 1 (commencing with Section 9000) of Division 2 of Title 1 of the Corporations Code or a cooperative housing corporation which is a stock cooperative, as defined by Section 11003.2 of the Business and Professions Code.

SEC. 11. Section 50531 of the Health and Safety Code is amended to read:

50531. (a) There is hereby created in the State Treasury the Urban Housing Development Loan Fund.

All money in the loan fund is hereby continuously appropriated to the department for carrying out the purposes of this chapter. The loan fund shall be a revolving loan fund which shall be used to make loans to local agencies or nonprofit corporations for assisted housing in urban areas, for occupancy primarily by persons of low income.

All interest, dividends, and pecuniary gains from investments or deposits of moneys in the loan fund shall accrue to the loan fund notwithstanding Section 16305.7 of the Government Code.

There shall be paid into the fund the following:

(1) Any moneys appropriated and made available by the Legislature for the purposes of the fund.

(2) Any moneys which the department receives in repayment of loans made from the fund, including any interest on loans made therefrom.

(3) Any other moneys which may be made available to the department for the purposes of this chapter from any other source or sources.

(b) If on January 1, 1981, any moneys appropriated pursuant to Section 4 of the act enacting this section remain unencumbered in the loan fund, such unencumbered balance shall be transferred from the loan fund to the General Fund in the State Treasury. This subdivision shall have no application to any other moneys deposited in the loan fund including moneys paid into the loan fund pursuant to paragraph (2) of subdivision (a).

(c) The department may make loans for the development of mobilehome parks and manufactured housing subdivisions.

SEC. 11.5. Section 50531.5 is added to the Health and Safety Code, to read:

50531.5. The department may make loans for the development of

mobilehome parks and manufactured housing subdivisions pursuant to Section 50531.

SEC. 12. Section 50533 of the Health and Safety Code is amended to read:

50533. On or before January 31, 1980, the Secretary of the Business and Transportation Agency shall undertake a review of the operation of the Urban Housing Development Loan Fund and shall determine, by written findings, whether or not the loan fund is being used for the purposes intended and is effective in promoting the development of assisted housing for persons of low income. Such findings shall also contain an evaluation of whether the amount of moneys in the loan fund is appropriate for the accomplishment of the purposes of this chapter. The secretary shall determine whether the limitation of urban housing development loans solely to public transit corridors would have a detrimental effect on implementation of the loan fund's program objectives. Such written findings shall be submitted to the Speaker of the Assembly and the President pro Tempore of the Senate and the chairman of the committee in each house which considers appropriations on or before January 31, 1980.

If the secretary submits such written findings on or before January 31, 1980, and determines that the loan fund is not being used for the purposes intended or is ineffective in promoting the development of assisted housing for persons of low income, then he may terminate the department's authority to loan moneys from the loan fund effective January 31, 1980, in which case the loan fund shall be dissolved on January 1, 1981, and all moneys therein, or payable thereto under this chapter, shall be paid into the General Fund in the State Treasury.

The department shall include in its annual report required by Section 50408, information regarding the number of manufactured housing units assisted pursuant to this chapter.

SEC. 13. Section 50901 of the Health and Safety Code is amended to read:

50901. The agency shall be administered by a board of directors consisting of 11 voting members, including a chairperson selected by the Governor from among his or her appointees. Members in office on January 1, 1978, shall continue to hold office until the expiration of their term, their ceasing to be qualified, or their removal from office. Members in office on January 1, 1981, shall continue to hold office until the expiration of their term, their ceasing to be qualified, or their removal from office. The State Treasurer, the Secretary of the Business and Transportation Agency, and the Director of Housing and Community Development, or their designees, shall be members, in addition to six members appointed by the Governor, one member appointed by the Speaker of the Assembly, and one member appointed by the Senate Rules Committee. The Director of Finance, the Director of the State Office of Planning and Research, and the executive director of the agency shall serve as nonvoting ex officio members of the board.

SEC. 13.5. Section 50902 of the Health and Safety Code is amended to read:

50902. Appointed members of the board shall be able persons broadly reflective of the economic, cultural, and social diversity of the state, including ethnic minorities and women. However, it is not intended that formulas or specific ratios be applied in order to achieve such diversity. The Governor shall select four of his or her six appointees from among the following categories: (1) an elected official of a city or county engaged in the planning or implementation of a housing, housing-assistance, or housing rehabilitation program; (2) a person experienced in residential real estate in the savings and loan, mortgage banking, or commercial banking industry; (3) a person experienced as a builder of residential housing; (4) a person experienced in organized labor in the residential construction industry; (5) a person experienced in the management of rental or cooperative housing occupied by lower income households; (6) a person experienced in manufactured housing finance and development; and (7) a person representing the public. No more than one person from each such category may serve on the board at any one time, except that two members may be appointed to represent the general public. The Governor shall also appoint two members who are residents of rental or cooperative housing financed by the agency or who are persons experienced in counseling, assisting, or representing tenants; provided, that only one such appointment may be made during the term of any member appointed by the Senate Rules Committee prior to January 1, 1981. At least one of the members appointed by the Governor shall be a resident of a rural or nonmetropolitan area. The Senate Rules Committee and the Speaker of the Assembly shall each appoint a person representing the general public. The terms of the members initially appointed by the Governor, the Senate Rules Committee, and the Speaker of the Assembly shall be as follows:

(a) An elected official of a city or county engaged in the planning or implementation of a housing, housing-assistance, or housing rehabilitation program—two years appointed by the Governor.

(b) Member experienced in residential real estate in the savings and loan mortgage banking or commercial banking industry—four years appointed by the Governor.

(c) Member who is experienced as a builder of residential housing—six years appointed by the Governor.

(d) Member experienced in organized labor in the residential construction industry—two years appointed by the Governor.

(e) Member experienced in the management of rental or cooperative housing occupied by lower income households—four years appointed by the Governor.

(f) Member experienced in manufactured housing finance and development—two years appointed by the Governor.

(g) Members appointed by the Governor who are residents of rental or cooperative housing financed by the agency or are

experienced in counseling, assisting, or representing tenants—six years and two years, respectively. who is a resident of rental or cooperative housing financed by the agency or is experienced in counseling, assisting, or representing tenants—six years.

(h) Member appointed by the Speaker of the Assembly who represents the general public—four years.

(i) Member appointed by the Senate Rules Committee who represents the general public—six years.

The term of any member of the board appointed to serve subsequent to the expiration of such an initial term shall be six years. Any person appointed to fill a vacancy on the board shall serve only for the remainder of the unexpired term. Members of the board shall, subject to continued qualification, be eligible for reappointment. If a member of the board ceases to meet the qualifications specified in this section, the membership of such person on the board shall be terminated.

SEC. 14. Section 51005 of the Health and Safety Code is amended to read:

51005. The agency shall, within 90 days following the close of each fiscal year, submit an annual report of its activities under this division for the preceding year to the Governor, the Secretary of the Business and Transportation Agency, the Director of Housing and Community Development, the State Treasurer, and the Legislature. Within 90 days following the close of each fiscal year, the agency shall also submit an annual report to the Joint Legislative Budget Committee. Each such report shall set forth a complete operating and financial statement of the agency during the concluded fiscal year. The report shall specify the number of units assisted, the distribution of units among the metropolitan, nonmetropolitan, and rural areas of the state, and shall contain a summary of statistical data relative to the incomes of households occupying assisted units, the monthly rentals charged to occupants of rental housing developments, and the sales prices of housing developments purchased during the previous fiscal year by housing sponsors who are persons or families of low or moderate income. The report shall also include a statement of accomplishment during the previous year with respect to the agency's progress, priorities, and affirmative action efforts. The agency shall specifically include in its report on affirmative action goals, statistical data on the numbers and percentages of minority sponsors, developers, contractors, subcontractors, suppliers, architects, engineers, attorneys, mortgage bankers or other lenders, insurance agents and managing agents. The agency shall cause an audit of its books and accounts with respect to its activities under this division to be made at least once during each fiscal year by an independent certified public accountant and the agency shall be subject to audit by the Department of Finance not more often than once each fiscal year.

Commencing with fiscal year 1981-82, the agency shall include in its annual report information with respect to the number of

manufactured housing units assisted by the agency.

Within 90 days following receipt of the agency's annual report, the Joint Legislative Budget Committee shall submit a report on the agency's activities under this division to the Legislature.

SEC. 15. Section 51005.5 is added to the Health and Safety Code, to read:

51005.5. In the event that the agency is unable to implement the provisions of Chapter 6.5 (commencing with Section 51320) of Part 3, it shall report to the Legislature on or before July 1, 1982, with respect to the reasons that the implementation is not feasible with recommendations as to revisions needed in its authority or in other laws to carry out the intent of the Manufactured Housing Assistance Act of 1980, or the agency shall prepare a report, in conjunction with the department, on means by which the state can provide financial assistance to persons and families to purchase manufactured housing and to increase the supply of such housing.

SEC. 16. Chapter 6.5 (commencing with Section 51320) is added to Part 3 of Division 31 of the Health and Safety Code, to read:

#### CHAPTER 6.5. MANUFACTURED HOUSING

51320. The agency may make loans for the following purposes:

(a) To finance the development of a mobilehome park which meets either of the following criteria:

(1) Is cooperatively owned by persons and families of low and moderate income.

(2) Consists of lots which will be rented by persons and families of low and moderate income. However, if subsidies are available, the costs of renting spaces and making mortgage payments on manufactured housing shall be affordable to those persons of low income residing within the park. In the event of a mobilehome park owned by a nonprofit corporation which will own the lots and the mobilehomes, the loans may include financing of both park development and manufactured housing acquisition.

(b) To finance the purchase of manufactured housing to be placed in a mobilehome park which is financed pursuant to paragraph (1) of subdivision (a).

(c) To finance the purchase of manufactured housing, first sold after July 1, 1981, and installed on a foundation system pursuant to Section 18551, by persons and families of low and moderate income, if the manufactured housing is within neighborhood preservation areas in which the agency makes loans. However, the agency may make loans outside of such areas to persons and families of low income.

(d) To finance the development of a subdivision consisting of manufactured housing to be purchased primarily by persons and families of low and moderate income. In connection with such subdivisions, the agency may provide financing for site development as well as lot and manufactured housing purchases.

51322. With respect to any of the activities undertaken pursuant to Section 51320, the agency may establish maximum purchase prices for manufactured housing and maximum loan amounts and loan terms, as it deems necessary to protect the state's credit, while still permitting persons and families of low and moderate income to purchase manufactured housing at affordable housing costs.

Rental mobilehome parks financed pursuant to Section 51320 shall be subject to the same conditions applicable to housing sponsors pursuant to Article 5 (commencing with Section 51200) of Chapter 4 of Part 3.

SEC. 17. Section 51853.6 is added to the Health and Safety Code, to read:

51853.6. Subject to the provisions of this part, the agency may insure or guarantee loans made by qualified mortgage lenders for the purposes described in Section 51320.

SEC. 18. 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 and installed on a foundation system pursuant to Section 18551 of the Health and Safety Code 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 the provisions of 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 of this code 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 twenty thousand dollars (\$120,000), 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 of this code to add to such purchase or contract price to the department in fixing the selling price of the farm to the veteran.

SEC. 19. Section 987.71 of the Military and Veterans Code is amended to read:

987.71. The purchaser shall make an initial payment of at least 5 percent of the selling price of the property. Purchasers of homes where the purchase price is equal to or less than thirty-five thousand

dollars (\$35,000) shall make an initial payment of at least 3 percent of the selling price of the property. The department may waive the initial payment in any case where the value of the property as determined by the department appraisal shall equal the amount to be paid by the department plus at least 5 percent where the purchase price is greater than thirty-five thousand dollars (\$35,000). In the case of homes where the purchase price is equal to or less than thirty-five thousand dollars (\$35,000), the department may waive the initial payment where the value of the property as determined by the department appraisal equals the amount to be paid by the department plus at least 3 percent. The balance of the purchase price may be amortized over a period fixed by the department, not exceeding 40 years for farms or homes, but not exceeding 30 years for mobilehomes, together with interest thereon at the rate as determined by the department pursuant to Section 987.87 for such amortization purposes. The department may, in order to allow the veteran to purchase the home selected without incurring excessive monthly payments, at the time of initial purchase postpone the commencement of payment of the principal balance for not to exceed five years, provided that the veteran's current income meets the standards for purchase on such terms and that the department determines, in accordance with previously established criteria for such determinations, that the veteran's income can reasonably be expected to increase sufficiently within the five-year period to make the transition to fully amortized principal and interest payments; and provided, that the total term of the contract of purchase does not exceed 40 years. The purchaser on any installment date may pay any or all installments still remaining unpaid. In any individual case the department may for good cause postpone from time to time upon terms as the department deems proper, the payment of the whole or any part of any installment of the purchase price or interest thereon. Each installment shall include an amount sufficient to pay the principal and interest on the participation contract to which the interest of the department is subject, and such amount as may be required by any covenant or provision contained in any resolution of issuance.

SEC. 20. It is the intent of the Legislature, if this bill and Assembly Bill 2153 are both chaptered and become effective January 1, 1981, both bills amend Section 50531 of the Health and Safety Code, and this bill is chaptered last, Section 11.5 of this act shall become operative and Section 11 of this act shall not become operative.

## CHAPTER 1137

An act to add and repeal Section 45108 of the Education Code, relating to school districts.

[Approved by Governor September 26, 1980 Filed with  
Secretary of State September 26, 1980 ]

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

SECTION 1. Section 45108 is added to the Education Code, to read:

45108. If the governing board of any school district establishes positions in the categories described below and restricts initial appointments of new employees to persons in low-income groups or residing in specifically designated areas of the community, then such positions shall, in addition to the regular class title, be classified as "restricted." The positions shall be part of the classified service and persons so employed shall be classified employees for all purposes except that (1) they shall not be subject to the provisions of Section 45272 or 45273, and (2) they shall not acquire permanent status or seniority credit and shall not be eligible for promotion into the regular classified service until they have complied with the provisions of subdivision (c) of Section 45105.

The categories of positions for which the governing board may establish restrictions under this section are:

(a) The position of instructional aide, as defined in Section 45343.

(b) Any other position involving personal contacts with pupils or parents, that is established to assist school staff personnel responsible for school-community relations; educational support services for such areas as counseling, library, or health; or the correction or prevention of behavioral problems.

Every district which employs persons in such "restricted" positions shall submit a report to the Superintendent of Public Instruction by August 1, 1981. The report shall include, but not be limited to, the number of persons employed, the number of days employed, and the categories of positions in which persons are employed in "restricted" positions.

The superintendent shall submit to the Legislature a report based on the data submitted by the districts by January 1, 1982.

This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.

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 before January 1, 1983, deletes or extends such date.

## CHAPTER 1138

An act to add Section 14671.2 to the Government Code, relating to state government.

[Approved by Governor September 26, 1980. Filed with Secretary of State September 26, 1980.]

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

SECTION 1. Section 14671.2 is added to the Government Code, to read:

14671.2. Notwithstanding Section 14670, the Director of General Services, with the consent of the state agency concerned and the approval of the governing body of any concerned local agency, may let for any period of time any real property or interest therein which belongs to the state, when the director deems such letting serves a beneficial public purpose limited to the development of housing or park and recreation facilities. Such leases shall be let in accordance with procedures prescribed by the director which facilitate development of housing or park and recreation facilities when such use is compatible with current use and foreseeable future use of such property. All proposed leases shall be reviewed by the State Public Works Board. In all cases, however, at least 25 percent of the housing units developed on state property leased pursuant to this section shall be available for the term of the lease to moderate-income persons as defined by Section 50093 of the Health and Safety Code, 12.5 percent shall be available for the term of the lease to low-income persons as defined by Section 50093 of the Health and Safety Code, and 12.5 percent shall be available for the term of the lease to very low-income persons as defined by Section 50105 of the Health and Safety Code.

In letting leases pursuant to this section, the director shall: (1) give preference to projects which provide for more affordable units than required by the percentages specified in this section; (2) determine that the project is compatible with local planning goals and environmental objectives.

The director may enter into leases pursuant to this section at less than market value, provided that the cost of administering the lease is recovered. The Department of Housing and Community Development shall recommend to the Director of General Services a lease amount which will enable the provision of housing for persons of low and moderate income.

All leases executed pursuant to this section shall contain a recital that the director has found the letting serves the required beneficial public purpose and complies with all provisions of this section, which recital shall be conclusive in favor of lessees from the state and their mortgagees.

## CHAPTER 1139

An act to amend Section 1916.5 of, and to add Sections 1916.8 and 1916.9 to, the Civil Code, and to amend Sections 1227, 1236, and 5074 of the Financial Code, relating to interest rates.

[Approved by Governor September 26, 1980 Filed with  
Secretary of State September 26, 1980 ]

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

**SECTION 1.** Section 1916.5 of the Civil Code is amended to read:  
1916.5. (a) No increase in interest provided for in any provision for a variable interest rate contained in a security document, or evidence of debt issued in connection therewith, shall be valid unless such provision is set forth in such security document, and in any evidence of debt issued in connection therewith, and such document or documents contain the following provisions:

(1) A requirement that when an increase in the interest rate is required or permitted by a movement in a particular direction of a prescribed standard an identical decrease is required in the interest rate by a movement in the opposite direction of the prescribed standard.

(2) The rate of interest shall change not more often than once during any semiannual period, and at least six months shall elapse between any two such changes.

(3) The change in the interest rate shall not exceed one-fourth of 1 percent in any semiannual period, and shall not result in a rate more than 2.5 percentage points greater than the rate for the first loan payment due after the closing of the loan.

(4) The rate of interest shall not change during the first semiannual period.

(5) The borrower is permitted to prepay the loan in whole or in part without a prepayment charge within 90 days of notification of any increase in the rate of interest.

(6) A statement attached to the security document and to any evidence of debt issued in connection therewith printed or written in a size equal to at least 10-point bold type, consisting of the following language:

**NOTICE TO BORROWER: THIS DOCUMENT CONTAINS PROVISIONS FOR A VARIABLE INTEREST RATE.**

(b) (1) The provisions of this section shall be applicable only to a mortgage contract, deed of trust, real estate sales contract, or any note or negotiable instrument issued in connection therewith, when its purpose is to finance the purchase or construction of real property containing four or fewer residential units or on which four or fewer residential units are to be constructed.

(2) This section shall not apply to unamortized construction loans with an original term of two years or less if the borrower does not

intend to occupy one of the units as his residence.

(c) Regulations setting forth the prescribed standard upon which variations in the interest rate shall be based may be adopted by the Savings and Loan Commissioner with respect to savings and loan associations, the Superintendent of Banks with respect to banks, and the Insurance Commissioner with respect to insurers.

(d) As used in this section:

(1) "Bank" includes, but is not limited to, a national banking association.

(2) "Savings and loan association" includes, but is not limited to, a federal savings and loan association, as defined by Section 11000 of the Financial Code.

(3) "Insurer" includes, but is not limited to, a nonadmitted insurance company.

(4) "Semiannual period" means each of the successive periods of six calendar months commencing with the first day of the calendar month in which the instrument creating the obligation is dated.

(5) "Security document" means a mortgage contract, deed of trust, or real estate sales contract.

(6) "Evidence of debt" means a note or negotiable instrument.

(e) Notwithstanding the provisions of subdivision (b) of Section 1227 and subdivision (a) of Section 7150 of the Financial Code, when there is an increase in the interest rate of a loan subject to this section which is made by a commercial bank pursuant to subdivision (b) of Section 1227 of the Financial Code, or by a savings and loan association pursuant to subdivision (a) of Section 7150 of the Financial Code, the term of such loan may be extended at the option of the borrower for such additional period as may be required to amortize the loan without increasing the existing monthly payment, but not to exceed a maximum term of 40 years.

(f) The provisions of this section shall be applicable only to instruments executed on and after the effective date of this section.

(g) This section shall not apply to nonprofit public corporations.

SEC. 2. Section 1916.8 is added to the Civil Code, to read:

1916.8. Any lender may make, purchase or participate in a renegotiable rate mortgage loan under this section if the loan complies with the provisions of this section pertaining to one- to four-family home loans.

(a) For purposes of this section, a renegotiable rate mortgage loan is a loan issued for a term of three, four or five years, secured by a long-term mortgage or deed of trust of up to 30 years, and automatically renewable at equal intervals except as provided in paragraph (1) of subdivision (b). The loan must be repayable in equal monthly installments of principal and interest during the loan term, in an amount at least sufficient to amortize a loan with the same principal and at the same interest rate over the remaining term of the mortgage or deed of trust. Only one of the indices described in paragraph (1) of subdivision (b) shall be used and no other index shall be used during the term of the mortgage or deed of trust

securing the loan. At renewal, no change other than in the interest rate may be made in the terms or conditions of the initial loan. Prepayment in full or in part of the loan balance secured by the mortgage or deed of trust may be made without penalty at any time after the beginning of the minimum notice period for the first renewal, or at any earlier time specified in the loan contract.

(b) Interest rate changes at renewal shall be determined as follows:

(1) Subject to the provisions of subdivision (a) the interest rate offered at renewal shall reflect the movement, in reference to the date of the original loan, of an index, which may be either (i) the contract interest rate on the purchase of previously occupied homes in the most recent monthly national average mortgage rate index for all major lenders published by the Federal Home Loan Bank Board, or (ii) the weighted average cost of funds for the 11th District Savings and Loan Associations as computed by the Federal Home Loan Bank of San Francisco; provided that a lender may extend the initial terms of loans for a period less than six months so that they may mature on the same date three, four or five years after the end of such period of extension, in which case the interest rate offered at renewal shall reflect the movement of the index from the end of such period so that loans may be grouped as though all loans of such group had originated at the end of the extension period.

(2) The maximum rate increase or decrease shall be  $\frac{1}{2}$  of 1 percentage point per year multiplied by the number of years in the loan term, with a maximum increase or decrease of 5 percentage points over the life of the mortgage or deed of trust. The lender may offer a borrower a renegotiable rate mortgage loan with maximum annual and total interest rate decreases smaller than the maximum set out in this paragraph, except that in such a case the maximum annual and total interest rate increases offered shall not exceed the maximum annual and total decreases set out in the loan contract.

(3) Interest rate decreases from the previous loan term shall be mandatory. Interest rate increases are optional with the lender, but the lender may obligate itself to a third party to take the maximum increase permitted by this paragraph.

(c) The borrower may not be charged any costs or fees in connection with the renewal of such loan.

(d) At least 90 days before the due date of the loan, the lender shall send written notification in the following form to the borrower:

#### NOTICE

Your loan with [name of lender], secured by a [mortgage/deed of trust] on property located at [address], is due and payable on [90 days from the date of notice].

If you do not pay by that date, your loan will be renewed automatically for \_\_\_\_\_ years, upon the same terms and conditions as the current loan, except that the interest rate will be

\_\_\_\_\_%. (See accompanying Truth-In-Lending statement for further credit information.)

Your monthly payment, based on that rate, will be \$\_\_\_\_\_, beginning with the payment due on \_\_\_\_\_, 19\_\_.

You may pay off the entire loan or a part of it without penalty at any time.

If you have questions about this notice, please contact [title and telephone number of lender's employee].

(e) An applicant for a renegotiable rate mortgage loan must be given, at the time he or she requests an application, a disclosure notice in the following form:

### INFORMATION ABOUT THE RENEGOTIABLE-RATE MORTGAGE

You have received an application form for a renegotiable-rate mortgage ("RRM"). The RRM differs from the fixed-rate mortgage with which you may be familiar. In the fixed-rate mortgage the length of the loan and the length of the underlying mortgage are the same, but in the RRM the loan is short-term (3-5 years) and is automatically renewable for a period equal to the mortgage (up to 30 years). Therefore, instead of having an interest rate that is set at the beginning of the mortgage and remains the same, the RRM has an interest rate that may increase or decrease at each renewal of the short-term loan. This means that the amount of your monthly payment may also increase or decrease.

The term of the RRM loan is \_\_\_\_\_ years, and the length of the underlying mortgage is \_\_\_\_\_ years. The initial loan term may be up to six months longer than later terms.

The lender must offer to renew the loan, and the only loan provision that may be changed at renewal is the interest rate. The interest rate offered at renewal is based on changes in an index rate. The index used is (either of the following statements shall be given): [computed monthly by the Federal Home Loan Bank Board, an agency of the federal government. The index is based on the national average contract rate for all major lenders for the purchase of previously occupied, single-family homes.] [the weighted average cost of savings, borrowings and Federal Home Loan Bank advances to California members of the Federal Home Loan Bank Board of San Francisco as computed from statistics tabulated by the Federal Home Loan Bank of San Francisco. The index used is computed by the Federal Home Loan Bank of San Francisco.]

At renewal, if the index has moved higher than it was at the beginning of the mortgage, the lender has the right to offer a renewal of the loan at an interest rate equaling the original interest rate plus the increase in the index rate. This is the maximum increase permitted to the lender. Although taking such an increase is optional with the lender, you should be aware that the lender has this right

and may become contractually obligated to exercise it.

If the index has moved down, the lender must at renewal reduce the original interest rate by the decrease in the index rate. No matter how much the index rate increases or decreases, **THE LENDER, AT RENEWAL, MAY NOT INCREASE OR DECREASE THE INTEREST RATE ON YOUR RRM LOAN BY AN AMOUNT GREATER THAN \_\_\_\_\_ OF ONE PERCENTAGE POINT PER YEAR OF THE LOAN, AND THE TOTAL INCREASE OR DECREASE OVER THE LIFE OF THE MORTGAGE MAY NOT BE MORE THAN \_\_\_\_\_ PERCENTAGE POINTS.**

As the borrower, you have the right to decline the lender's offer of renewal. If you decide not to renew, you will have to pay off the remaining balance of the mortgage. Even if you decide to renew, you have the right to prepay the loan in part or in full without penalty at any time after the beginning of the minimum notice period for the first renewal. To give you enough time to make this decision, the lender, 90 days before renewal, will send a notice stating the due date of the loan, the new interest rate and the monthly payment amount. If you do not respond to the notice, the loan will be automatically renewed at the new rate. You will not have to pay any fees or charges at renewal time.

The maximum interest rate increase at the first renewal is \_\_\_\_\_ percentage points. On a \$50,000 mortgage with a loan term of \_\_\_\_\_ years and an original interest rate of [lender's current commitment rate] percent, this rate change would increase the monthly payment (principal and interest) from \$\_\_\_\_\_ to \$\_\_\_\_\_. Using the same example, the highest rate you might have to pay over the life of the mortgage would be \_\_\_\_\_ percent, and the lowest would be \_\_\_\_\_ percent.

**SEC. 3.** Section 1916.9 is added to the Civil Code, to read:

**1916.9.** (a) Every lender who offers a renegotiable rate mortgage loan pursuant to Section 1916.8 to a borrower who occupies or intends to occupy the property which is security for the loan shall also offer to such borrower a fixed rate mortgage loan in the same amount with a term of at least 29 years.

(b) Nothing in this section shall require that the terms of such alternative loans, including the rates of interest thereon, must be the same as those terms offered with regard to the fixed-payment adjustable-rate loan or the renegotiable rate mortgage loan also offered.

(c) This section does not apply to any lender who makes less than 10 loans per year.

**SEC. 4.** Section 1227 of the Financial Code is amended to read:

**1227.** A commercial bank may lend on the security of a first lien on real property or a first lien on a leasehold under a lease which does not expire, or which has been extended or renewed so that it does not expire, for at least 10 years beyond the maturity date of the loan, if:

(a) The term of the loan does not exceed 10 years and the amount does not exceed 60 percent of the sound market value of the property or leasehold, together with the improvements located on the property which are made subject to the lien, as determined by proper appraisal; or

(b) The term of the loan does not exceed 30 years, is repayable in substantially equal installments not less often than monthly (or such variation therefrom as may be authorized under a loan executed pursuant to Section 1916.5 or 1916.8 of the Civil Code), with payments commencing not later than 60 days from the date of the loan or, in the case of a construction loan, commencing not later than one year from the date of the loan, and the amount does not exceed 90 percent of the sound market value of the property or leasehold, together with the improvements located on the property which are made subject to the lien, as determined by proper appraisal, provided, however, such loan may exceed 90 percent of the sound market value of the property or leasehold if that portion of the loan which is in excess of such 90 percent is guaranteed or insured by a qualified private insurer as determined by the superintendent; or

(c) The loan is on a farm or productive agricultural lands, the term does not exceed 30 years, is repayable in substantially equal installments not less often than annually, and the amount does not exceed 90 percent of the sound market value of the property or leasehold, together with the improvements located on the property which are made subject to the lien, as determined by proper appraisal; or

(d) The term of the loan does not exceed six months and the amount does not exceed 85 percent of the sound market value of the property or leasehold, together with the improvements located on the property which are made subject to the lien, as determined by proper appraisal; or

(e) The term of the loan does not exceed 60 months, the amount does not exceed 85 percent of the sound market value of the property or leasehold, together with the improvements located on the property which are made subject to the lien, as determined by proper appraisal, and the loan is for the purpose of financing building operations under a plan providing for payment of the loan or providing for refinancing by loans otherwise permitted by this chapter.

A commercial bank may make a loan without regard to the above restrictions when necessary to facilitate the sale of real property owned by the bank.

SEC. 5. Section 1236 of the Financial Code is amended to read:

1236. A commercial bank may lend on the security of a first security interest on stock or a membership certificate issued to a tenant-stockholder or resident-member by a completed fee simple cooperative housing corporation, as defined in Section 17265 of the Revenue and Taxation Code and Section 216 of the U.S. Internal Revenue Code, and the assignment by way of security of the

borrower's interest in the proprietary lease or right of tenancy in property issued by such cooperative housing corporation, provided all of the real property owned by such corporation is located within the state, and further provided, that:

(a) The term of the loan does not exceed 30 years, is repayable in substantially equal installments (or such variation therefrom as may be authorized under a loan executed pursuant to Section 1916.5 or 1916.8 of the Civil Code), not less often than monthly, with payments commencing not later than 60 days from the date of the loan, and the amount does not exceed 80 percent of the sound market value of such certificates of stock or membership certificates; and

(b) The proprietary lease or right of tenancy in the property provides:

(1) That no sublease in excess of one year, amendment or modification to such proprietary lease or right of tenancy in the property shall be permitted or created without the lender's prior written consent, and

(2) That in the event of the borrower's default under such loan, the lender shall have the right, without the prior consent or approval of the cooperative housing corporation, to sell such shares or membership certificates at public or private sale following at least 30 days prior written notice to the borrower and to the cooperative housing corporation, at the address of the premises subject to the proprietary lease or right of tenancy in the property, and assign such proprietary lease or right of tenancy in the property to the purchaser who shall agree as a condition of such assignment to cure any defaults thereunder.

For all purposes of this division, such loan shall be considered a secured residential real estate loan and shall be subject to rules and regulations implementing the provisions of this section issued by the superintendent.

SEC. 6. Section 5074 of the Financial Code is amended to read:

5074. An amortized loan is a loan which provides for payments to be made of interest and on the principal in monthly installments. The installments as to the combined principal and interest shall be at least of a sufficient amount so that the smallest installment provided in the note evidencing the loan, other than the last installment, if continued at such monthly intervals would result in paying the entire principal within the maximum legal term for the particular loan. The first installment which includes principal on each amortized loan must fall due within the time limits specified in Section 7151.

For the purposes of this division the following are amortized loans:

(a) A loan made to finance the construction of real property if it meets the requirements set forth or if such loan provides for payment in full on or before 36 months have elapsed from the date of the loan.

(b) A loan which conforms to the provisions of Sections 1916.5, 1916.6, 1916.7 or 1916.8 of the Civil Code whether or not the provisions of such sections are applicable to the loan.

## CHAPTER 1140

An act to add Section 1176.1 to the Insurance Code, relating to insurance.

[Approved by Governor September 26, 1980 Filed with  
Secretary of State September 26, 1980 ]

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

SECTION 1. Section 1176.1 is added to the Insurance Code, to read:

1176.1. (a) An insurer may invest in notes or bonds secured by second mortgages or other second liens, including all inclusive or wraparound mortgages or liens, upon real property encumbered only by a first mortgage or lien which meets the requirements set forth in Section 1176, subject to either of the following conditions:

(1) The insurer also owns the note or bond secured by the prior first mortgage or lien and the aggregate value of both loans does not exceed the loan to market value ratio requirements of Section 1176.

(2) The note or bond is secured by an "all inclusive" or "wraparound" lien or mortgage which conforms to the requirements specified in subdivision (b), provided that the aggregate value of the resulting loan does not exceed the loan to market value ratio requirements of Section 1176.

(b) The terms "wraparound" and "all inclusive" lien or mortgage refer to a loan made by an insurer to a borrower on the security of a mortgage or lien on real property other than property containing a residence of one to four units or upon which a residence of one to four units is to be constructed, where the real property is encumbered by a first mortgage or lien and which loan is subject to all of the following:

(1) There is no more than one preexisting mortgage or lien on the real property.

(2) The total amount of the obligation of the borrower to the insurer under the loan is not less than the sum of the amount disbursed by the insurer on account of the loan and the outstanding balance of the obligation secured by the preexisting lien or mortgage.

(3) The instrument evidencing the lien or mortgage by which the obligation of the borrower to the insurer under the loan is secured, is recorded, and the lien is insured under a policy of title insurance in an amount not less than the total amount of the obligation of the borrower to the insurer under the loan.

(4) The insurer either (A) pursuant to subdivision (b) of Section 2924 of the Civil Code, files for record in the office of the recorder of the county in which the real property is located a duly acknowledged request for a copy of any notice of default or of sale under the preexisting lien, or (B) otherwise arranges with the recorder of any county in which the real property is located to be

advised in case of the filing for record of any notice of default or of sale with respect to any obligation secured by the preexisting lien.

(5) The amount disbursed by an insurer under any single wraparound or all-inclusive loan made pursuant to this section shall not exceed the greater 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.

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## CHAPTER 1141

An act to add Chapter 6 (commencing with Section 52060) to Part 5 of Division 31 of the Health and Safety Code, relating to housing.

[Approved by Governor September 26, 1980. Filed with  
Secretary of State September 26, 1980 ]

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

SECTION 1. Chapter 6 (commencing with Section 52060) is added to Part 5 of Division 31 of the Health and Safety Code, to read:

### CHAPTER 6. CALIFORNIA HOUSING FINANCE AGENCY ASSISTANCE IN ISSUING CITY AND COUNTY REVENUE BONDS FOR HOME MORTGAGES

52060. This chapter constitutes an alternative method for cities and counties to issue revenue bonds for providing home mortgages pursuant to the provisions of Chapters 1 (commencing with Section 52000) to 5 (commencing with Section 52051), inclusive.

52061. The agency, and any city or county, or a city and a county, may enter into an agreement which provides that the agency sell bonds on behalf of any such city or county, or for such city and such county, for the purpose of providing funds for home mortgages.

52062. Any agreement made pursuant to Section 52061 shall contain provisions doing all of the following:

(a) Limiting the maximum amount of bonds to be issued by a city or county.

(b) Requiring the proposed issue to be submitted to the Housing Bond Credit Committee for consideration pursuant to Section 51360.5.

(c) Requiring that the city, or county, or each city and county which is party to the agreement, not issue additional bonds for home mortgage loans within a period of three years from the date of the bonds issued pursuant to the agreement, or until all of the proceeds of such bonds have been used to make home mortgage loans, without the express written consent of the agency.

(d) Requiring that all bonds and any prospectus in connection with such bonds contain a legend condition to the following effect:

“Neither the faith and credit of the State of California or the agency nor the taxing power of the state is pledged to the payment of principal or interest on this bond.”

(e) Requiring agency approval of the bond counsel of the city or county, or the bond counsel of each city and county which is a party to the agreement.

(f) Designating, consistent with the agency’s program for financing residential structures of four units or less authorized by Article 2 (commencing with Section 51125) of Chapter 5 of Part 3 and the regulations adopted pursuant thereto, maximum sales prices of homes, maximum loan amounts for home mortgages involving rehabilitation and refinancing, borrower eligibility criteria, geographic areas where loans can be made, insurance requirements, the minimum percentage of bond proceeds to be utilized for home mortgages involving new construction and rehabilitation and the amount to be allocated to a bond reserve fund.

52063. Any agreement pursuant to Section 52061 may provide any or all of the following:

(a) That the agency will provide, either directly or through agency approved lending institutions, for the origination and servicing of home mortgage loans.

(b) For the payment of fees and expenses in connection with the issuing of bonds.

(c) For any matter described in Section 51355 relating to agency bonds.

52064. Subject only to the other provisions of this chapter and to any agreement between the agency and city or county, the provisions of Chapter 4 (commencing with Section 52030) shall be applicable to any issuer and to any bonds issued pursuant to the authority of this chapter.

52065. Bonds issued pursuant to this chapter shall not be deemed issues of the agency for any purpose, including being counted within any calculation of the agency’s bonding authority limitations now or hereafter established by law.

52066. Bonds of more than one city or county may be pooled for purposes of issuance and bond proceeds, reserved or other security for the bonds, including, but not limited to, loan or loan participation, made or derived from bond proceeds, may likewise be pooled to secure the issuance of any such bonds.

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## CHAPTER 1142

An act to add Section 65852.3 to the Government Code, and to amend Section 18300 of the Health and Safety Code, relating to zoning.

[Approved by Governor September 26, 1980 Filed with  
Secretary of State September 26, 1980 ]

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

SECTION 1. The Legislature finds and declares that manufactured housing, which includes mobilehomes, offers Californians an additional opportunity to own and live in decent, safe, and affordable housing on a permanent basis.

SEC. 1.5. Section 65852.3 is added to the Government Code, to read:

65852.3. A city, including a charter city, county, or city and county shall not prohibit the installation of mobilehomes certified under the National Mobile Home Construction and Safety Standards Act of 1974 (42 U.S.C. Section 5401, et seq.) on a foundation system, pursuant to Section 18551 of the Health and Safety Code, on lots zoned for single-family dwellings. However, a city, including a charter city, county, or city and county may designate lots zoned for single-family dwellings for mobilehomes as described in this section, which lots are determined to be compatible for such mobilehome use. A city, including a charter city, county, or city and county may subject any such mobilehome and the lot on which it is placed to any or all of the same development standards to which a conventional single-family residential dwelling on the same lot would be subject, including, but not limited to, building setback standards, side and rear yard requirements, standards for enclosures, access, and vehicle parking and architectural, aesthetic requirements, and minimum square footage requirements. However, any architectural requirements imposed on the mobilehome structure itself, exclusive of any requirement for any and all additional enclosures, shall be limited to its roof overhang, roofing material, and siding material. In no case may a city, including a charter city, county, or city and county apply any development standards which will have the effect of totally precluding mobilehomes from being installed as permanent residences.

SEC. 2. Section 18300 of the Health and Safety Code is amended to read:

18300. (a) The provisions of this part apply to all parts of the state and supersede any ordinance enacted by any city, county, or city and county, whether general law or chartered, applicable to the provisions of this part. Except as provided in Section 18930, the commission may adopt regulations to interpret and make specific the provisions of this part and when adopted such regulations shall apply to all parts of the state.

(b) Upon 30 days' written notice from the governing body to the department, any city, county, or city and county may assume the responsibility for the enforcement of this part, the building standards published in the State Building Standards Code relating to mobilehome parks, travel trailer parks, recreational trailer parks,

temporary trailer parks, incidental camping areas, and tent camps, and the regulations adopted pursuant to the provisions of this part following approval by the department for such assumption.

(c) The commission shall adopt regulations which set forth the conditions for assumption and may include required qualifications of local enforcement agencies. The conditions set forth and the qualifications required in the regulations which set forth the conditions for assumption shall relate solely to the ability of local agencies to enforce properly the building standards published in the State Building Standards Code relating to mobilehome parks, travel trailer parks, recreational trailer parks, temporary trailer parks, incidental camping areas, and tent camps, and the other regulations relating to mobilehome parks promulgated pursuant to this part. The regulations which set forth the conditions for assumption shall not set requirements for local agencies different than those which the state maintains for its own enforcement program. When assumption is approved, the department shall transfer the responsibility for enforcement to the city, county, or city and county, together with all records of mobilehome parks within the jurisdiction of the city, county, or city and county.

(d) (1) In the event of nonenforcement of the provisions of this part, the building standards published in the State Building Standards Code relating to mobilehome parks, travel trailer parks, recreational trailer parks, temporary trailer parks, incidental camping areas, and tent camps, or the other regulations adopted pursuant to the provisions of this part by a city, county, or city and county, the department shall enforce the provisions of this part, the building standards published in the State Building Standards Code relating to mobilehome parks, travel trailer parks, recreational trailer parks, temporary trailer parks, incidental camping areas, and tent camps, and the other regulations adopted pursuant to the provisions of this part in any such city, county, or city and county after the department has given written notice to the governing body of such city, county, or city and county setting forth in what respects the city, county, or city and county has failed to discharge its responsibility, and the city, county, or city and county has failed to initiate corrective measures to carry out its responsibility within 30 days of such notice.

(2) Where the department determines that the local enforcement agency is not properly enforcing this part, the local enforcement agency shall have the right to appeal such a decision to the commission.

(e) Any city, city and county, or county, upon written notice from the governing body to the department, may cancel its assumption of responsibility for the enforcement of this part. The department, upon receipt of such notice, shall assume such responsibility within 30 days.

(f) Every city, county, or city and county, within its jurisdiction, shall enforce all of the provisions of this part, the building standards

published in the State Building Standards Code relating to mobilehome parks, travel trailer parks, recreational trailer parks, temporary trailer parks, incidental camping areas, and tent camps, and the other regulations adopted pursuant to the provisions of this part, as they relate to mobilehomes and to mobilehome accessory buildings or structures located outside of mobilehome parks.

(g) The provisions of this part shall not prevent local authorities of any city, county, or city and county, within the reasonable exercise of their police powers:

(1) From establishing, subject to the requirements of Section 65852.3 of the Government Code, certain zones for mobilehomes or mobilehome parks, travel trailers, travel trailer parks, recreational trailer parks, temporary trailer parks, or tent camps within such city, county, or city and county, or establishing types of uses and locations, including family mobilehome parks, adult mobilehome parks, mobilehome condominiums, mobilehome subdivisions, or mobilehome planned unit developments within such city, county, or city and county, as defined in the zoning ordinance, or from adopting rules and regulations by ordinance or resolution prescribing standards of lot, yards, or park area, landscaping, walls or enclosures, signs, access, and vehicle parking or from prescribing the prohibition of certain uses for mobilehome parks, travel trailer parks, recreational trailer parks, temporary trailer parks, or tent camps.

(2) From regulating the construction and use of equipment and facilities located outside of a mobilehome or camp car used to supply gas, water, or electricity thereto, except facilities owned, operated, and maintained by a public utility, or to dispose of sewage or other waste therefrom when such facilities are located outside a mobilehome park, travel trailer park, recreational trailer park, or temporary trailer park for which a permit is required by this part, or the regulations adopted pursuant thereto.

(3) From requiring a permit to use a mobilehome or camp car outside a mobilehome park, travel trailer park, recreational trailer park, or temporary trailer park for which a permit is required by this part or by regulations adopted pursuant thereto, and require a fee therefor by local ordinance commensurate with the cost of enforcing this part and local ordinance with reference to the use of mobilehomes and camp cars, which permit may be refused or revoked if such use violates any provisions of this part or Part 2 (commencing with Section 18000) of this division, any regulations adopted pursuant thereto, or any local ordinance applicable to such use.

(4) From requiring a local building permit to construct an accessory structure for a mobilehome when such mobilehome is located outside a mobilehome park, travel trailer park, recreational trailer park or temporary trailer park, under circumstances which the provisions of this part or Part 2 (commencing with Section 18000) of this division and the regulation adopted pursuant thereto do not require the issuance of a permit therefor by the department.

SEC. 3. This act shall become operative July 1, 1981.

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CHAPTER 1143

An act to amend Section 65302 of, and to add Article 10.6 (commencing with Section 65580) to Chapter 3 of Division 1 of Title 7 of the Government Code relating to local planning.

[Approved by Governor September 26, 1980 Filed with  
Secretary of State September 26, 1980.]

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

SECTION 1. The Department of Housing and Community Development shall within 30 days after the effective date of this section prepare and send to each county and city a questionnaire requesting the following information:

(1) The number of mobilehome parks within the jurisdiction, and the authorized number of mobilehome sites in each park.

(2) The number of requests or permit applications for change of use of the mobilehome park.

(3) The number of applications for the establishment of new mobilehome parks.

(4) The disposition of requests or permit applications for change of use of mobilehome parks or applications for the establishment of new mobilehome parks and the reasons for denial of such requests or applications.

(5) The availability of land within the jurisdiction that may be appropriate for establishment of mobilehome parks.

(6) Local established practices, policies, and ordinances concerning change of use of mobilehome parks.

(7) Local efforts and policies for reducing the incidence of change of use of mobilehome parks within the jurisdiction.

The information specified in paragraphs (1) to (4), inclusive, shall cover the period from January 1, 1979, through December 31, 1979. The information specified in paragraphs (5) to (7), inclusive, shall reflect current conditions and circumstances as of the time of the completion of the questionnaire.

The department shall prepare and submit a written report to the Legislature on or before July 1, 1981, containing an evaluation of the information received in response to the questionnaire.

This section shall apply to charter cities and counties as well as general law cities and counties.

SEC. 2. Section 65302 of the Government Code is amended to read:

65302. The general plan shall consist of a statement of development policies and shall include a diagram or diagrams and text setting forth objectives, principles, standards, and plan

proposals. The plan shall include the following elements:

(a) A land use element which designates the proposed general distribution and general location and extent of the uses of the land for housing, business, industry, open space, including agriculture, natural resources, recreation, and enjoyment of scenic beauty, education, public buildings and grounds, solid and liquid waste disposal facilities, and other categories of public and private uses of land. The land use element shall include a statement of the standards of population density and building intensity recommended for the various districts and other territory covered by the plan. The land use element shall also identify areas covered by the plan which are subject to flooding and shall be reviewed annually with respect to such areas.

(b) A circulation element consisting of the general location and extent of existing and proposed major thoroughfares, transportation routes, terminals, and other local public utilities and facilities, all correlated with the land use element of the plan.

(c) A housing element as provided in Article 10.6 (commencing with Section 65580).

(d) A conservation element for the conservation, development, and utilization of natural resources including water and its hydraulic force, forests, soils, rivers and other waters, harbors, fisheries, wildlife, minerals, and other natural resources. That portion of the conservation element including waters shall be developed in coordination with any countywide water agency and with all district and city agencies which have developed, served, controlled or conserved water for any purpose for the county or city for which the plan is prepared. The conservation element may also cover:

- (1) The reclamation of land and waters.
- (2) Flood control.
- (3) Prevention and control of the pollution of streams and other waters.
- (4) Regulation of the use of land in stream channels and other areas required for the accomplishment of the conservation plan.
- (5) Prevention, control, and correction of the erosion of soils, beaches, and shores.
- (6) Protection of watersheds.
- (7) The location, quantity and quality of the rock, sand and gravel resources.

The conservation element shall be prepared and adopted no later than December 31, 1973.

(e) An open-space element as provided in Article 10.5 (commencing with Section 65560) of this chapter.

(f) A seismic safety element consisting of an identification and appraisal of seismic hazards such as susceptibility to surface ruptures from faulting, to ground shaking, to ground failures, or to effects of seismically induced waves such as tsunamis and seiches.

The seismic safety element shall also include an appraisal of mudslides, landslides, and slope stability as necessary geologic

hazards that must be considered simultaneously with other hazards such as possible surface ruptures from faulting, ground shaking, ground failure and seismically induced waves.

To the extent that a county's seismic safety element is sufficiently detailed containing appropriate policies and programs for adoption by a city, a city may adopt that portion of the county's seismic safety element that pertains to the city planning area within the county's jurisdiction, in satisfaction of this subdivision.

In adopting a county seismic safety element, a city shall follow all requirements regarding the content and adoption of general plan elements as set forth in this article and Article 6 (commencing with Section 65350) of this chapter.

Each county and city shall submit to the Division of Mines and Geology of the Department of Conservation one copy of the seismic safety element and any technical studies used for developing the seismic safety element.

(g) A noise element, which shall recognize guidelines adopted by the Office of Noise Control pursuant to Section 46050.1 of the Health and Safety Code, and which quantifies the community noise environment in terms of noise exposure contours for both near- and long-term levels of growth and traffic activity. Such noise exposure information shall become a guideline for use in development of the land use element to achieve noise compatible land use and also to provide baseline levels and noise source identification for local noise ordinance enforcement.

The sources of environmental noise considered in this analysis shall include, but are not limited to, the following:

- (1) Highways and freeways.
- (2) Primary arterials and major local streets.
- (3) Passenger and freight on-line railroad operations and ground rapid transit systems.
- (4) Commercial, general aviation, heliport, helistop, and military airport operations, aircraft overflights, jet engine test stands, and all other ground facilities and maintenance functions related to airport operation.
- (5) Local industrial plants, including, but not limited to, railroad classification yards.
- (6) Other ground stationary noise sources identified by local agencies as contributing to the community noise environment.

The noise exposure information shall be presented in terms of noise contours expressed in community noise equivalent level (CNEL) or day-night average level ( $L_{dn}$ ). CNEL means the average equivalent A-weighted sound level during a 24-hour day, obtained after addition of five decibels to sound levels in the evening from 7 p.m. to 10 p.m. and after addition of 10 decibels to sound levels in the night before 7 a.m. and after 10 p.m.  $L_{dn}$  means the average equivalent A-weighted sound level during a 24-hour day, obtained after addition of 10 decibels to sound levels in the night before 7 a.m. and after 10 p.m.

The contours shall be shown in minimum increments of 5db and shall continue down to 60db. For areas deemed noise sensitive, including, but not limited to, areas containing schools, hospitals, rest homes, long-term medical or mental care facilities, or any other land-use areas deemed noise sensitive by the local jurisdiction, the noise exposure shall be determined by monitoring.

A part of the noise element shall also include the preparation of a community noise exposure inventory, current and projected, which identifies the number of persons exposed to various levels of noise throughout the community.

The noise element shall also recommend mitigating measures and possible solutions to existing and foreseeable noise problems.

The state, local, or private agency responsible for the construction, maintenance, or operation of those transportation, industrial, or other commercial facilities specified in paragraph 2 of this subdivision shall provide to the local agency producing the general plan, specific data relating to current and projected levels of activity and a detailed methodology for the development of noise contours given this supplied data, or they shall provide noise contours as specified in the foregoing statements.

It shall be the responsibility of the local agency preparing the general plan to specify the manner in which the noise element will be integrated into the city or county's zoning plan and tied to the land use and circulation elements and to the local noise ordinance. The noise element, once adopted, shall also become the guideline for determining compliance with the state's noise insulation standards, as contained in Section 1092 of Title 25 of the California Administrative Code.

(h) A scenic highway element for the development, establishment, and protection of scenic highways pursuant to the provisions of Article 2.5 (commencing with Section 260) of Chapter 2 of Division 1 of the Streets and Highways Code.

(i) A safety element for the protection of the community from fires and geologic hazards including features necessary for such protection as evacuation routes, peak load water supply requirements, minimum road widths, clearances around structures, and geologic hazard mapping in areas of known geologic hazards.

The requirements of this section shall apply to charter cities.

SEC. 3. Article 10.6 (commencing with Section 65580) is added to Chapter 3 of Division 1 of Title 7 of the Government Code, to read:

#### Article 10.6. Housing Elements

65580. The Legislature finds and declares as follows:

(a) The availability of housing is of vital statewide importance, and the early attainment of decent housing and a suitable living environment for every California family is a priority of the highest order.

(b) The early attainment of this goal requires the cooperative

participation of government and the private sector in an effort to expand housing opportunities and accommodate the housing needs of Californians of all economic levels.

(c) The provision of housing affordable to low- and moderate-income households requires the cooperation of all levels of government.

(d) Local and state governments have a responsibility to use the powers vested in them to facilitate the improvement and development of housing to make adequate provision for the housing needs of all economic segments of the community.

(e) The Legislature recognizes that in carrying out this responsibility, each local government also has the responsibility to consider economic, environmental, and fiscal factors and community goals set forth in the general plan and to cooperate with other local governments and the state in addressing regional housing needs.

65581. It is the intent of the Legislature in enacting this article:

(a) To assure that counties and cities recognize their responsibilities in contributing to the attainment of the state housing goal.

(b) To assure that counties and cities will prepare and implement housing elements which, along with federal and state programs, will move toward attainment of the state housing goal.

(c) To recognize that each locality is best capable of determining what efforts are required by it to contribute to the attainment of the state housing goal, provided such a determination is compatible with the state housing goal and regional housing needs.

(d) To ensure that each local government cooperates with other local governments in order to address regional housing needs.

65582. As used in this article:

(a) "Community," "locality," "local government," or "jurisdiction" means a city, city and county, or county.

(b) "Department" means the Department of Housing and Community Development.

(c) "Housing element" or "element" means the housing element of the community's general plan, as required pursuant to this article and subdivision (c) of Section 65302.

65583. The housing element shall consist of an identification and analysis of existing and projected housing needs and a statement of goals, policies, quantified objectives, and scheduled programs for the preservation, improvement, and development of housing. The housing element shall identify adequate sites for housing, including rental housing, factory-built housing, and mobilehomes, and shall make adequate provision for the existing and projected needs of all economic segments of the community. The element shall contain all of the following:

(a) An assessment of housing needs and an inventory of resources and constraints relevant to the meeting of these needs. The assessment and inventory shall include the following:

(1) Analysis of population and employment trends and

documentation of projections and a quantification of the locality's existing and projected housing needs for all income levels. Such existing and projected needs shall include the locality's share of the regional housing need in accordance with Section 65584.

(2) Analysis and documentation of household characteristics, including level of payment compared to ability to pay, housing characteristics, including overcrowding, and housing stock condition.

(3) An inventory of land suitable for residential development, including vacant sites and sites having potential for redevelopment, and an analysis of the relationship of zoning and public facilities and services to these sites.

(4) Analysis of potential and actual governmental constraints upon the maintenance, improvement, or development of housing for all income levels, including land use controls, building codes and their enforcement, site improvements, fees and other exactions required of developers, and local processing and permit procedures.

(5) Analysis of potential and actual nongovernmental constraints upon the maintenance, improvement, or development of housing for all income levels, including the availability of financing, the price of land, and the cost of construction.

(6) Analysis of any special housing needs, such as those of the handicapped, elderly, large families, farmworkers, and families with female heads of households.

(7) Analysis of opportunities for energy conservation with respect to residential development.

(b) A statement of the community's goals, quantified objectives, and policies relative to the maintenance, improvement, and development of housing.

It is recognized that the total housing needs identified pursuant to subdivision (a) may exceed available resources and the community's ability to satisfy this need within the content of the general plan requirements outlined in Article 5 (commencing with Section 65300). Under these circumstances, the quantified objectives need not be identical to the identified existing housing needs, but should establish the maximum number of housing units that can be constructed, rehabilitated, and conserved over a five-year time frame.

(c) A program which sets forth a five-year schedule of actions the local government is undertaking or intends to undertake to implement the policies and achieve the goals and objectives of the housing element through the administration of land use and development controls, provision of regulatory concessions and incentives, and the utilization of appropriate federal and state financing and subsidy programs when available. In order to make adequate provision for the housing needs of all economic segments of the community, the program shall do all of the following:

(1) Identify adequate sites which will be made available through appropriate zoning and development standards and with public

services and facilities needed to facilitate and encourage the development of a variety of types of housing for all income levels, including rental housing, factory-built housing and mobilehomes, in order to meet the community's housing goals as identified in subdivision (b).

(2) Assist in the development of adequate housing to meet the needs of low- and moderate-income households.

(3) Address and, where appropriate and legally possible, remove governmental constraints to the maintenance, improvement, and development of housing.

(4) Conserve and improve the condition of the existing affordable housing stock.

(5) Promote housing opportunities for all persons regardless of race, religion, sex, marital status, ancestry, national origin, or color.

The program shall include an identification of the agencies and officials responsible for the implementation of the various actions and the means by which consistency will be achieved with other general plan elements and community goals. The local government shall make a diligent effort to achieve public participation of all economic segments of the community in the development of the housing element, and the program shall describe this effort.

65584. (a) For purposes of subdivision (a) of Section 65583, a locality's share of the regional housing needs includes that share of the housing need of persons at all income levels within the area significantly affected by a jurisdiction's general plan. The distribution of regional housing needs shall, based upon available data, take into consideration market demand for housing, employment opportunities, the availability of suitable sites and public facilities, commuting patterns, type and tenure of housing need, and the housing needs of farmworkers. The distribution shall seek to avoid further impaction of localities with relatively high proportions of lower income households. Based upon data provided by the Department of Housing and Community Development relative to the statewide need for housing, each council of governments shall determine the existing and projected housing need for its region. The Department of Housing and Community Development shall ensure that this determination is consistent with the statewide housing need and may revise the determination of the council of governments if necessary to obtain this consistency. Each locality's share shall be determined by the appropriate council of governments consistent with the criteria above with the advice of the department subject to the procedure established pursuant to subdivision (c).

(b) For areas with no council of governments, the Department of Housing and Community Development shall determine housing market areas and define the regional housing need for localities within these areas. Where the department determines that a local government possesses the capability and resources and has agreed to accept the responsibility, with respect to its jurisdiction, for the

identification and determination of housing market areas and regional housing needs, the department shall delegate this responsibility to the local governments within these areas.

(c) Within 90 days following a determination of a council of governments pursuant to subdivision (a), or the department's determination pursuant to subdivision (b), a local government may revise the definition of its share of the regional housing need. The revised share shall be based upon available data and accepted planning methodology, and supported by adequate documentation. Within 60 days of the local government's revision, the council of governments or the department, as the case may be, shall accept the revision or shall indicate, based upon available data and accepted planning methodology, why the revision is inconsistent with the regional housing need. The housing element shall contain an analysis of the factors and circumstances, with all supporting data, justifying the revision. All materials and data used to justify any revision shall be made available upon request by any interested party within 45 days upon payment of reasonable costs of reproduction unless such costs are waived due to economic hardship.

(d) Any authority to review and revise a local government's share of the regional housing need granted under this section shall not constitute authority to revise, approve, or disapprove the manner in which the local government's share of the regional housing need is implemented through its housing program.

65585. (a) Each city, county, and city and county shall consider the guidelines adopted by the Department of Housing and Community Development pursuant to Section 50459 of the Health and Safety Code in preparation and amendment of the housing element pursuant to this article. Such guidelines shall be advisory to each local government in order to assist it in the preparation of its housing element.

(b) At least 90 days prior to adoption of the housing element pursuant to this article and Section 65357, or at least 45 days prior to the adoption of an amendment to this element, the planning agency of a city, county, or city and county shall submit a draft of the element or amendment to the Department of Housing and Community Development. The department shall review drafts submitted to it and report its findings to the planning agency within 90 days of receipt of the draft in the case of adoption of the housing element pursuant to this article, or within 45 days of receipt of the draft in the case of an amendment. The legislative body shall consider the department's findings prior to final adoption of the housing element or amendment.

(c) Each local government shall provide the department with a copy of its adopted housing element or amendments. The department may review adopted housing elements or amendments and report its findings.

(d) Except as provided in Section 65586, any and all findings made by the Department of Housing and Community Development

pursuant to subdivisions (b) and (c) shall be advisory to the local government.

65586. Local governments shall conform their housing elements to the provisions of this article on or before October 1, 1981. Jurisdictions with housing elements adopted before October 1, 1981, in conformity with the housing element guidelines adopted by the Department of Housing and Community Development on December 7, 1977, and located in Subchapter 3 (commencing with Section 6300) of Chapter 6 of Part 1 of Title 25 of the California Administrative Code, shall be deemed in compliance with this article as of its effective date. A locality with a housing element found to be adequate by the department before October 1, 1981, shall be deemed in conformity with these guidelines.

65587. (a) Each city, county, or city and county shall bring its housing element, as required by subdivision (c) of Section 65302, into conformity with the requirements of this article on or before October 1, 1981. No extension of time for such purpose may be granted pursuant to Section 65302.6, notwithstanding its provisions to the contrary.

(b) Any action brought by any interested party to review the conformity with the provisions of this article of any housing element or portion thereof or revision thereto shall be brought pursuant to Section 1085 of the Code of Civil Procedure; the court's review of compliance with the provisions of this article shall extend to whether the housing element or portion thereof or revision thereto reasonably complies with the requirements of this article.

65588. (a) Each local government shall review its housing element as frequently as appropriate to evaluate all of the following:

(1) The appropriateness of the housing goals, objectives, and policies in contributing to the attainment of the state housing goal.

(2) The effectiveness of the housing element in attainment of the community's housing goals and objectives.

(3) The progress of the city, county, or city and county in implementation of the housing element.

(b) The housing element shall be revised as appropriate, but not less than every five years, to reflect the results of this periodic review, except that the first such revision shall be accomplished by July 1, 1984.

65589. (a) Nothing in this article shall require a city, county, or city and county to do any of the following:

(1) Expend local revenues for the construction of housing, housing subsidies, or land acquisition.

(2) Disapprove any residential development which is consistent with the general plan.

(b) Nothing in this article shall be construed to be a grant of authority or a repeal of any authority which may exist of a local government to impose rent controls or restrictions on the sale of real property.

(c) Nothing in this article shall be construed to be a grant of

authority or a repeal of any authority which may exist of a local government with respect to measures that may be undertaken or required by a local government to be undertaken to implement the housing element of the local general plan.

(d) The provisions of this article shall be construed consistent with, and in promotion of, the statewide goal of a sufficient supply of decent housing to meet the needs of all Californians.

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. Section 2 of this act shall become operative October 1, 1981.

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## CHAPTER 1144

An act to add Section 669.5 to the Evidence Code, relating to the evidentiary burden of proof.

[Approved by Governor September 26, 1980. Filed with  
Secretary of State September 26, 1980 ]

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

SECTION 1. The Legislature finds and declares that an adequate supply of housing is necessary for the health, safety, and public welfare of all Californians. The Legislature further finds and declares that local government ordinances which severely restrict the number of housing units which may be constructed have an effect on the supply of housing within the region, may exacerbate the housing market conditions in surrounding jurisdictions, and may limit access to affordable housing within the jurisdiction and in the region. While the Legislature recognizes that, in certain instances, the public health, safety, and welfare warrant enactment of such ordinances, increasing public need for adequate housing requires that local governments properly establish the need for such ordinances and balance the need for such ordinances against the need for new housing opportunities.

SEC. 2. Section 669.5 is added to the Evidence Code, to read:

669.5. (a) Any ordinance enacted by the governing body of a city, county, or city and county which directly limits, by number, (1) the building permits that may be issued for residential construction or (2) the buildable lots which may be developed for residential purposes, is presumed to have an impact on the supply of residential units available in an area which includes territory outside

the jurisdiction of such city, county, or city and county.

(b) With respect to any action which challenges the validity of such an ordinance, the city, county, or city and county enacting such ordinance shall bear the burden of proof that such ordinance is necessary for the protection of the public health, safety, or welfare of the population of such city, county, or city and county.

(c) This section does not apply to ordinances which (1) impose a moratorium, to protect the public health and safety, on residential construction for a specified period of time, if, under the terms of the ordinance, the moratorium will cease when the public health or safety is no longer jeopardized by such construction, or (2) create agricultural preserves under Chapter 7 (commencing with Section 51200) of Part 1 of Division 1 of Title 5 of the Government Code, or (3) restrict the number of buildable parcels by limiting the minimum size of buildable parcels within a zone or by designating lands within a zone for nonresidential uses.

(d) This section shall not apply to a voter approved ordinance adopted by referendum or initiative prior to the effective date of this section which (1) requires the city, county, or city and county to establish a population growth limit which represents its fair share of each year's statewide population growth, or (2) which sets a growth rate of no more than the average population growth rate experienced by the state as a whole.

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## CHAPTER 1145

An act to amend Sections 35152, 54790, 54791, 56157, 56198, and 56470 of the Government Code, relating to local agencies.

[Approved by Governor September 26, 1980 Filed with  
Secretary of State September 26, 1980]

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

SECTION 1. Section 35152 of the Government Code is amended to read:

35152. Except when a commission is the lead agency pursuant to Section 21067 of the Public Resources Code, the executive officer shall determine within 30 days of receiving a petition or resolution of application whether such petition or application is complete and acceptable for filing or incomplete. The application shall be deemed accepted for filing if no determination has been made by the executive officer within the 30-day period. When an application is accepted for filing, the executive officer shall immediately issue a certificate of filing to the chief petitioners or the legislative body making the proposal. A certificate of filing shall be in the form prescribed by the executive officer and shall specify the date upon which the proposal will be heard by the commission. Following

issuance of the certificate of filing, the executive officer shall proceed to set the proposal for hearing and give published notice hereof as provided in this part. The date of such hearing shall be not more than 90 days after issuance of the certificate or after the application is deemed to have been accepted, whichever is earlier, and the date for conducting the hearing, as determined herein, shall be mandatory. In the event that an application is determined not to be complete, the executive officer shall immediately transmit such determination to the applicant specifying those parts of the application which are incomplete and the manner in which they can be made complete.

SEC. 2. Section 54790 of the Government Code is amended to read:

54790. The commission shall have the following powers and duties, subject to the limitations upon its jurisdiction herein set forth:

(a) To review and approve or disapprove with or without amendment, wholly, partially, or conditionally proposals for:

(1) The incorporation of cities.

(2) The formation of special districts.

(3) The annexation of territory to local agencies, (other than local agencies the annexation of territory to which is required to be made pursuant to the provisions of Division 1 (commencing with Section 56000) of Title 6); provided that a commission shall not impose any conditions which would directly regulate land use, property development, or subdivision requirements. When the development purposes are not made known to the annexing agency, the annexation shall be reviewed on the basis of the adopted plans and policies of the annexing agency. Nothing in this paragraph, however, shall be construed as prohibiting a commission from requiring, as a condition to annexation, that a city prezone the territory to be annexed provided that the commission shall not specify how, or in what manner, the territory shall be prezoned.

(4) The exclusion of territory from a city.

(5) The disincorporation of a city.

(6) The consolidation of two or more cities.

(7) The development of new communities within the jurisdiction of the commission pursuant to Sections 33021 and 33298 of the Health and Safety Code.

(b) To adopt standards and procedures for the evaluation of proposals, including standards for each of the factors enumerated in Section 54796.

(c) To make and enforce rules and regulations for the orderly and fair conduct of hearings by the commission.

(d) To incur usual and necessary expenses for the accomplishment of its functions.

(e) To appoint and assign staff personnel and to employ or contract for professional or consulting services to carry out and effect the functions of the commission.

(f) To review the boundaries of the territory involved in any proposal with respect to the definiteness and certainty thereof, the

nonconformance of proposed boundaries with lines of assessment or ownership, and other similar matters affecting the proposed boundaries.

(g) To waive the restrictions of Section 35010 if it finds that the application of the restrictions would be detrimental to the orderly development of the community and that the area that would be enclosed by the annexation or incorporation is so located that it cannot reasonably be annexed to another city or incorporated as a new city.

(h) To waive the application of Section 25210.90 if it finds the application would deprive an area of a service needed to insure the health, safety, or welfare of the area's residents and if it finds that such waiver would not affect the ability of a city to provide any service; provided, however, that within 60 days of the inclusion of the territory within the city, the governing body may adopt a resolution nullifying the waiver.

SEC. 3. Section 54791 of the Government Code is amended to read:

54791. Proceedings shall not be initiated until application is made to, and accepted for filing by, the executive officer, and approval is given by the commission of the principal county. Any proponent, any legislative body, or any members of any legislative body, desiring to initiate proceedings shall submit an application to the executive officer of the principal county. Except when a commission is the lead agency pursuant to Section 21067 of the Public Resources Code, the executive officer shall determine within 30 days of receiving an application whether such application is complete and acceptable for filing or incomplete. An application shall be deemed accepted for filing if no determination has been made by the executive officer within the 30-day period. An executive officer shall accept for filing, and file, any application submitted in the form prescribed by the commission and containing all of the information and data required pursuant to Section 54792. When an application is accepted for filing the executive officer shall immediately issue a certificate of filing to the applicant. A certificate of filing shall be in the form prescribed by the executive officer. From the date of issuance of a certificate of filing, or the date upon which an application is deemed to have been accepted, whichever is earlier, an application shall be deemed filed pursuant to this chapter. In the event that an application is determined not to be complete, the executive officer shall immediately transmit such determination to the applicant specifying those parts of the application which are incomplete and the manner in which they can be made complete.

If a special district is, or as a result of a proposed formation or annexation will be, located in more than one county, the executive officer of the principal county shall immediately furnish a copy of any application accepted for filing by such executive officer to the executive officer of each such other county.

SEC. 4. Section 56157 of the Government Code is amended to

read:

56157. Except when a commission is the lead agency pursuant to Section 21067 of the Public Resources Code, the executive officer shall determine within 30 days of receiving a petition whether such petition is complete and acceptable for filing or incomplete. An application shall be deemed accepted for filing if no determination has been made by the executive officer within the 30-day period. If the petition, including any supplemental petition, shall be certified to be sufficient, and contains all the information and data required pursuant to Section 56140 and is in the form prescribed by the commission, the executive officer shall accept the proposal for filing. When the executive officer accepts a proposal for filing he shall immediately issue a certificate of filing to the chief petitioners, if any. A certificate of filing shall be in the form prescribed by the executive officer and shall give notice of the sufficiency of the petition and the date the proposal shall be heard by the commission. Following issuance of the certificate of filing the executive officer shall proceed to set the proposal for hearing and give notice thereof in the manner provided in Part 4 (commencing with Section 56250) of this division. In the event that a petition is determined not to be complete, the executive officer shall immediately transmit such determination to the chief petitioner or petitioners specifying those parts of the petition which are incomplete and the manner in which they can be made complete.

SEC. 5. Section 56198 of the Government Code is amended to read:

56198. Except when a commission is the lead agency pursuant to Section 21067 of the Public Resources Code, the executive officer shall determine within 30 days of receiving a resolution of application whether such resolution of application is complete and acceptable for filing or incomplete. An application shall be deemed accepted for filing if no determination has been made by the executive officer within the 30-day period. Upon receipt of a resolution of application, the executive officer shall ascertain whether, except for provisions relating to signers and signatures, the resolution and any supporting documents contain all the information and data required pursuant to Section 56140 and is in the form prescribed by the commission. If the executive officer finds that the resolution contains all such information and is in the prescribed form, he shall accept the proposal made therein for filing and immediately issue a certificate of filing to the affected county, city or district making the proposal. A certificate of filing shall be in the form prescribed by the executive officer and shall give notice of the date the proposal shall be heard by the commission. Following issuance of the certificate of filing, the executive officer shall proceed to set the proposal for hearing and give notice thereof in the manner provided by Part 4 (commencing with Section 56250) of this division. In the event that a resolution of application is determined not to be complete, the executive officer shall immediately transmit such determination to the applicant

specifying those parts of the resolution of application which are incomplete and the manner in which they can be made complete.

SEC. 6. Section 56470 of the Government Code is amended to read:

56470. Any change of organization or reorganization may provide for, or be made subject to one or more of, the following terms and conditions, provided that any of the following terms and conditions shall not directly regulate land use, property development, or subdivision requirements:

(a) The payment of a fixed or determinable amount of money, either as a lump sum or in installments, for the acquisition, transfer, use or right of use of all or any part of the existing property, real or personal, of any city, county, or district.

(b) The levying or fixing and the collection of (1) special, extraordinary, or additional taxes or assessments, or (2) special, extraordinary, or additional service charges, rentals, or rates, or (3) both, for the purpose of providing for any payment required pursuant to subdivision (a) of this section.

(c) The imposition, exemption, transfer, division, or apportionment, as among any affected cities, counties, districts, and territory of liability for payment of all or any part of principal, interest, and any other amounts which shall become due on account of all or any part of any outstanding or then authorized but thereafter issued bonds, including revenue bonds, or other contracts or obligations of any city, county, district or any improvement district therein and the levying or fixing and the collection of any (1) taxes or assessments, or (2) service charges, rentals, or rates or, (3) both in the same manner as provided in the original authorization of the bonds and in the amount necessary to provide for such payment.

(d) If, as a result of any term or condition made pursuant to subdivision (c), the liability of any affected city, county, or district for payment of the principal of any bonded indebtedness shall be increased or decreased, the term and condition may specify the amount, if any, of such increase or decrease which shall be included in, or excluded from, the outstanding bonded indebtedness of any such agency for the purpose of the application of any statute or charter provision imposing a limitation upon the principal amount of outstanding bonded indebtedness of such agency.

(e) The formation of a new improvement district or districts or the annexation or detachment of territory to, or from, any existing improvement district or districts.

(f) The incurring of new indebtedness or liability by, or on behalf of, all or any part of any district, including territory being annexed to any district, or of any existing or proposed new improvement district therein. The new indebtedness may be the obligation solely of territory to be annexed provided the district has the authority to establish zones for incurring indebtedness. The indebtedness or liability shall be incurred substantially in accordance with the laws otherwise applicable to the district.

(g) The issuance and sale of any bonds, including authorized but unissued bonds of a subject district, either by such district or by a district designated as the successor to any district which shall be extinguished as a result of any change of organization or reorganization.

(h) The acquisition, improvement, disposition, sale, transfer, or division of any property, real or personal.

(i) The disposition, transfer, or division of any moneys or funds (including cash on hand and moneys due but uncollected) and any other obligations.

(j) The fixing and establishment of priorities of use or right of use of water, or capacity rights in any public improvements or facilities or of any other property, real or personal.

(k) The establishment, continuation, or termination of any office, department, or board, or the transfer, combining, consolidation, or separation of any offices, departments, or boards, or any of the functions thereof, if, and to the extent that, any such matters shall be authorized by the principal act.

(l) The employment, transfer, or discharge of employees, the continuation, modification, or termination of existing employment contracts, civil service rights, seniority rights, retirement rights, and other employee benefits and rights.

(m) The designation of a city, county, or district, as the successor to any district which shall be extinguished as a result of any change of organization or reorganization, for the purpose of succeeding to all of the rights, duties, and obligations of the extinguished district with respect to enforcement, performance or payment of any outstanding bonds, including revenue bonds, or other contracts and obligations of said extinguished district.

(n) The designation (1) of the method for the selection of members of the legislative body of a district or (2) the number of such members, (3) or both, where the proceedings are for a consolidation, or a reorganization providing for a consolidation or formation of a new district and the principal act provides for alternative methods of such selection or for varying numbers of such members, or both.

(o) The initiation, conduct, or completion of proceedings on a proposal made under and pursuant to the Knox-Nisbet Act, Chapter 6.6 (commencing with Section 54773) of Division 2, Title 5.

(p) The fixing of the effective date of any change of organization, subject to the limitations of Section 56456.

(q) Any terms and conditions authorized or required by the principal act with respect to any change of organization.

(r) The continuation or provision of any service currently provided or previously authorized by official act of the district to be provided.

(s) Any other matters necessary or incidental to any of the foregoing.

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.

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## CHAPTER 1146

An act relating to agriculture, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1980. Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. In 1978, the Legislature approved a pilot guayule program to establish 10 test plots in suitable growing areas within the state, and under the administration of the Department of Food and Agriculture, six test plots have been completed and are flourishing.

SEC. 2. The Director of Food and Agriculture shall continue to administer and coordinate the existing guayule development program and shall seek all available federal funding in the amount necessary to support the following projects:

- (a) Demonstration projects on the 10 established test plots.
- (b) Continuation of the breeding and selection program.

SEC. 3. The Director of Food and Agriculture shall also seek additional funding from both private and public sources to fund the following programs in the order listed:

- (a) Expansion of the guayule rubber breeding program.
- (b) Establishment of a pilot plant for the processing and extraction of rubber from guayule.

SEC. 4. The Legislature finds that the Mediterranean fruit fly, an insect known to be a serious pest of over 200 crops, has been found in two widely separated locations in California. The insect can live anywhere in the state that fruit and vegetable crops are grown and it has a potential of costing the citrus industry alone over 65 million dollars (\$65,000,000) annually if the insect is allowed to spread. A major statewide infestation could cost California agriculture one billion dollars (\$1,000,000,000) a year in control costs and losses to crops. The Legislature finds and declares that because of the enormous potential impact, this pest must be eradicated.

SEC. 5. The Legislature declares that, since the Mediterranean fruit fly has already spread over an area of 100 square miles in two locations since being found on June 5, 1980, and since it will continue to spread rapidly unless eradicated and, if the normal budgeting process is followed, funds could not be provided to combat this

serious pest until February 1981, and since the Department of Food and Agriculture Emergency Fund cannot provide the total funds required to eradicate this pest, and, in fact, that fund has been virtually eliminated just one month into the new fiscal year, in order to provide funding on a priority basis for the eradication activities, additional appropriations to the Department of Food and Agriculture to be used for the eradication of the Mediterranean fruit fly, and other purposes as authorized by the department, are required.

SEC. 6. The Director of Food and Agriculture shall report to the Assembly Committee on Agriculture on a quarterly basis, beginning three months after the date this legislation is chaptered, until June 30, 1981. The reports shall include the amount of money spent on the eradication program, and a summary of the efforts of the Department of Food and Agriculture, to the date of the report and its upcoming plans for the next quarter.

SEC. 7. The sum of one million two hundred thousand dollars (\$1,200,000) is hereby appropriated from the General Fund to the Department of Food and Agriculture for allocation as follows:

- (a) For funding California's existing guayule program ..... \$ 200,000
- (b) For funding of the Department of Food and Agriculture Emergency Fund ..... 1,000,000

Any of the funds in paragraph (b) of this section which have not been expended by June 30, 1981, shall revert to the General Fund.

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 to ensure continued research in the production of guayule, the further development of the state pilot project for guayule, and continued efforts toward eradication of the Mediterranean fruit fly at the earliest possible time, it is necessary that this act take effect immediately.

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CHAPTER 1147

An act to add and repeal Section 35555 of the Vehicle Code, relating to vehicles, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1980. Filed with Secretary of State September 29, 1980 ]

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

**SECTION 1.** Section 35555 is added to the Vehicle Code, to read:  
35555. Notwithstanding subdivision (b) of Section 35551 and Section 35551.5, a cotton module mover, as defined in Section 35400.5, registered in California before July 1, 1980, may carry a gross weight on each set of tandem axles in excess of 34,000 pounds while crossing any state highway, or while being operated on any county highway, unless the county board of supervisors having jurisdiction over the county highway adopts a resolution prohibiting or limiting the operation of any cotton module mover exceeding the allowable axle weight limits on that county highway or on all county highways under its jurisdiction.

This section shall be applicable only to highways within the Counties of Fresno, Imperial, Kern, Kings, Madera, Merced, Riverside, San Benito, San Bernardino, and Tulare.

This section shall remain in effect only until July 1, 1984, and as of that date is repealed, unless a later enacted statute, which is chaptered before July 1, 1984, 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:

In order that cotton module movers be available for the timely and efficient harvesting of cotton to supply much needed fiber for this country and the world in 1980 and thereafter so that the harvesting may be completed by the time required by regulations of the Department of Food and Agriculture to prevent the spread of the pink bollworm, it is necessary that this act take effect immediately.

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## CHAPTER 1148

An act to repeal and add Part 2 (commencing with Section 3301) of Division 3 of the Food and Agricultural Code, and to amend Section 830.31 of the Penal Code, relating to expositions and fairs.

[Approved by Governor September 26, 1980. Filed with  
Secretary of State September 29, 1980.]

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

**SECTION 1.** Part 2 (commencing with Section 3301) of Division 3 of the Food and Agricultural Code is repealed.

**SEC. 2.** Part 2 (commencing with Section 3301) is added to Division 3 of the Food and Agricultural Code, to read:

**PART 2. CALIFORNIA EXPOSITION AND STATE FAIR****CHAPTER 1. GENERAL PROVISIONS**

3301. It is the intent of the Legislature to vitalize the California Exposition and State Fair by creating a new entity in state government managed by a board of directors with sufficient autonomy for efficient operation balanced by appropriate state oversight. The board of directors shall develop a policy which provides managerial and fiscal responsibility and shall work towards a goal of fiscal independence from state General Fund support. The board of directors shall develop a policy which provides for an innovative program including the concept of an agriculturally themed exposition which would communicate the issues surrounding the production and marketing of food, fiber, and plant material to the general public and such other concepts as are feasible.

3302. It is the intent of the Legislature that no changes shall be made in the uses of the flood plain on California Exposition and State Fair property until the board has adopted a management plan for the flood plain area which complies with current law concerning Bushy Lake Preservation in Chapter 9 (commencing with Section 5830) of Division 5 of the Public Resources Code and with the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code).

3303. As used in this part, "board" or "board of directors" means the Board of Directors of the California Exposition and State Fair.

3304. All records, information, equipment, and real and personal property held by the Department of Parks and Recreation relating to the former California Exposition and State Fair administered and managed by the Department of Parks and Recreation shall be transferred to the California Exposition and State Fair created by Section 3311.

3305. All civil service employees of the Division of Exposition and State Fair of the Department of Parks and Recreation shall retain all of their positions, status, rights, privileges, and benefits. The California Exposition and State Fair shall not be required to retain any unnecessary officer or employee. The Department of Parks and Recreation shall endeavor to transfer as many of the affected employees as possible to other positions within the Department of Parks and Recreation. The California Exposition and State Fair created by Section 3311 shall endeavor to employ as many of the affected employees as possible.

3306. The California Exposition and State Fair created by Section 3311 shall assume all of the obligation for any revenue bonds issued pursuant to Chapter 1072 of the Statutes of 1957.

Nothing in this part shall impair any of the rights given the holders of bonds sold by the State Public Works Board pursuant to the State Building Construction Act of 1955 (Part 10b (commencing with Section 15800) of Division 3 of Title 2 of the Government Code).

## CHAPTER 2. ORGANIZATION

3311. The California Exposition and State Fair is hereby created as a separate independent entity in state government. The California Exposition and State Fair shall be governed by its board of directors. The California Exposition and State Fair shall submit its budget to the Department of Finance for approval pursuant to Section 13320 of the Government Code.

3312. (a) The governing body of the California Exposition and State Fair shall be an 11-member board of directors. The directors shall be residents of California. The directors shall be appointed by the Governor with the consent of the Senate. Directors appointed to the board shall have general knowledge of, interest in, and expertise in one or more of the following areas: fair management, city or county government, horseracing, the arts, exhibiting, the media, education, youth, commerce and commercial products of the state, industry and industrial products of the state, agricultural production and forest industries, the entertainment industry, livestock and poultry, sports, recreation, fisheries, oceanography, organized labor, and finance and banking.

(b) Five directors shall be knowledgeable in the production, processing, or marketing of agricultural products and may be appointed from lists of nominees submitted for consideration to the Governor from California agricultural organizations, district agricultural associations, and county and citrus fruit fairs, one director shall be a public member, and the remaining five directors shall be representative, to the extent possible, of areas of knowledge, interest, and expertise enumerated in subdivision (a).

(c) The directors shall be appointed for four-year terms, except that of the members initially appointed, four shall be appointed for a term of two years, four shall be appointed for a term of three years, and three shall be appointed for a term of four years. The Governor shall appoint directors to fill vacancies which occur during a term and such appointments shall be for the remainder of the unexpired term.

3313. The board may annually select a chairperson from among the directors.

3314. The directors shall serve without compensation, but shall be reimbursed for all necessary expenses actually incurred in the performance of their duties.

3315. Any director who misses three consecutive regular meetings of the board without permission of the board shall be deemed to have resigned from the board.

A director may be removed for cause by the Governor, upon recommendation of the board.

3316. The board may appoint advisory committees. Advisory committees may provide information and advice to the board with respect to the operations and management of the California Exposition and State Fair or such other matters as the board deems appropriate.

The California State Fair Advisory Commission is hereby abolished. Nothing in this part shall, however, prevent the members of the former commission from being appointed to the board or advisory committees.

3317. The two Members of the Legislature who represent the Assembly and Senate district in which the California Exposition and State Fair facilities are located shall meet with and, except as otherwise provided by the Constitution, advise the board to the extent that such advisory participation is not incompatible with their duties as Members of the Legislature.

### CHAPTER 3. ADMINISTRATION

3321. The board shall appoint, pursuant to Section 4 of Article VII of the California Constitution, a general manager of the California Exposition and State Fair who shall serve at the pleasure of the board. The term of office and duties of the general manager shall be determined by the board.

3322. (a) The following officers of the California Exposition and State Fair shall be appointed by the Governor, pursuant to Section 4 of Article VII of the California Constitution, upon recommendation of the board:

- (1) Deputy general manager.
- (2) Program manager.
- (3) Marketing manager.

(b) The state officers appointed pursuant to subdivision (a) shall serve at the pleasure of the board and each officer may select a deputy or employee pursuant to Section 4 of Article VII of the California Constitution. The persons appointed pursuant to this subdivision shall be appointed by the state officer as specified and shall serve as follows:

- (1) Operations manager by the deputy general manager.
- (2) Agriculture specialist by the program manager.
- (3) Public relations manager by the marketing manager.

### CHAPTER 4. POWERS AND DUTIES

3331. The board shall serve as the policymaking body for the California Exposition and State Fair and shall have full responsibility for the year-round management and operation of all facilities of the California Exposition and State Fair.

The board shall provide for an annual fair in one or more seasonal divisions in Sacramento County of the industries and industrial products of the state and commercial products exported and imported through the ports of the state. The fair shall be designated the California State Fair.

3332. The board has authority to do any of the following:

- (a) Contract.
- (b) Accept funds or gifts of value from the United States or any person to aid in carrying out the purposes of this part.

(c) Conduct or contract for programs, either independently or in cooperation with any individual, public or private organization, or federal, state, or local governmental agency.

(d) Establish and maintain a bank checking account or a saving and loan association account, approved by the Director of Finance in accordance with Sections 16506 and 16605 of the Government Code, for depositing funds appropriated to the California Exposition and State Fair pursuant to subdivision (a) of Section 19622 of the Business and Professions Code. The Department of Finance shall audit the account at the end of each fiscal year.

(e) Make or adopt all necessary orders, rules, or regulations for governing the activities of the California Exposition and State Fair.

(f) Delegate to the officers and employees of the California Exposition and State Fair the authority to appoint civil service personnel according to state civil service procedures.

(g) Delegate to the officers and employees of the California Exposition and State Fair the exercise of powers vested in the board as the board may deem desirable for the orderly management and operation of the California Exposition and State Fair.

(h) Appoint all necessary marshals and police to keep order and preserve peace at the California Exposition and State Fair premises on a year-round basis who shall have the powers of peace officers specified in Section 830.31 of the Penal Code.

3333. The board shall submit a report to the Legislature and Governor on or before January 30, 1982, and each year thereafter, with respect to the financial condition, present operations, and future planned activities of the California Exposition and State Fair.

3334. All records of the California Exposition and State Fair for entries in any of its events are public records, except entries in events which are scheduled for future judging or overnight entries in races on which there is parimutuel wagering prior to such events, judging, or races.

SEC. 2. Section 830.31 of the Penal Code is amended to read:

830.31. Marshals and police appointed by the California Exposition and State Fair pursuant to Section 3332 of the Food and Agricultural 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 3332 of the Food and Agricultural Code and the authority of any such officer extends to any place in the state; provided, that except as provided in Section 830.6, or Section 1509.7 of the Military and Veterans 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.

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## CHAPTER 1149

An act to amend Sections 10131.6, 10131.7, and 10177.2 of the Business and Professions Code, to amend Sections 798.55, 798.56, 1801.4, 2981, 2982, 2982.8, 2983.8, 2984.2, and 2984.3 of the Civil Code, to amend Section 9302 of the Commercial Code, to amend Sections 18012, 18060.2, 18218, 18550, and 18551 of, to add Sections 18004.1 18004.3, 18005.7, 18007.5, 18010.2, 18011.3, 18012.5, 18065, 18066, 18066.1, 18066.2, 18066.3, 18066.4, 18066.5, 18066.6, 18080.7, 18210.5, 18218.5, and 50405.2 to, and to add Chapter 4.2 (commencing with Section 18067), Chapter 4.5 (commencing with Section 18070), and Chapter 4.7 (commencing with Section 18075), to Part 2 of Division 13 of, the Health and Safety Code, to amend Section 630 of the Probate Code, to amend Sections 5801, 5812, 6012.8, 6012.9, 6094.5, 10751, and 10759 of, and to repeal Section 11914 of, the Revenue and Taxation Code, to amend Sections 396 and 5901 of, and to repeal Chapter 6 (commencing with Section 11950) of Division 5 of, the Vehicle Code, relating to habitable structures, and making an appropriation therefor.

[Approved by Governor September 26, 1980. Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. Section 10131.6 of the Business and Professions Code is amended to read:

10131.6. (a) Notwithstanding any other provision of law, a person licensed as a real estate broker may sell or offer to sell, buy or offer to buy, solicit prospective purchasers of, solicit or obtain listings of, or negotiate the purchase, sale, or exchange of any mobilehome if the mobilehome has been registered under the provisions of Division 3 (commencing with Section 4000) of the Vehicle Code or Part 2 (commencing with Section 18000) of Division 13 of the Health and Safety Code for at least one year.

(b) No real estate broker who engages in the activities authorized by this section shall maintain any place of business where two or more mobilehomes are displayed and offered for sale by such person, unless the broker is also licensed as a mobilehome dealer as provided for by Governor's Reorganization Plan No. 1 of 1980.

(c) As used in this chapter, "mobilehome" means a structure transportable in one or more sections, designed and equipped to contain not more than two dwelling units to be used with or without a foundation system. "Mobilehome" does not include a recreational vehicle, as defined in Section 18010.5 of the Health and Safety Code,

a commercial coach, as defined in Section 18012 of the Health and Safety Code, or factory-built housing, as defined in Section 19971 of the Health and Safety Code.

(d) In order to carry out the provisions of this section, the commissioner shall prescribe by regulation, after consultation with the Department of Housing and Community Development, methods and procedures to assure compliance with requirements of the Health and Safety Code pertaining to mobilehome registration, collection of sales and use taxes, and transaction documentation.

SEC 2. Section 10131.7 of the Business and Professions Code is amended to read:

10131.7. It is unlawful for any real estate licensee acting under authority of Section 10131.6:

(a) To advertise or offer for sale in any manner any mobilehome unless it is either in place on a lot rented or leased for human habitation within an established mobilehome park as defined in Section 18214 of the Health and Safety Code and the advertising or offering for sale is not contrary to any terms of a contract between the seller of the mobilehome and the owner of the mobilehome park, or is otherwise located, pursuant to a local zoning ordinance or permit, on a lot where its presence has been authorized or its continued presence and such use would be authorized for a total and uninterrupted period of at least one year.

(b) To fail to withdraw any advertisement of a mobilehome for sale, lease or exchange within 48 hours after his receipt of notice that the mobilehome is no longer available for sale, lease or exchange.

(c) To advertise or represent a mobilehome as a new mobilehome.

(d) To include as an added cost to the selling price of a mobilehome, an amount for licensing, as prescribed by Section 10751 of the Revenue and Taxation Code, or transfer of title of the mobilehome as a vehicle, which amount is not due to the state unless, prior to the sale, such amount has been paid by the licensee to the state in order to avoid penalties that would have accrued because of late payment of such fees.

(e) To make any representation that a mobilehome is capable of being transported on California highways if the mobilehome does not meet all of the equipment requirements applicable to mobilehomes of Division 12 (commencing with Section 24000) of the Vehicle Code, or to fail to disclose any material fact respecting such equipment requirements.

(f) To advertise or otherwise represent, or knowingly to allow to be advertised or represented on his behalf or at his place of business, that no downpayment is required in connection with the sale of a mobilehome when a downpayment is in fact, required and the buyer is advised or induced to finance such downpayment by a loan in addition to any other loan financing the remainder of the purchase price of the mobilehome.

(g) To fail or neglect properly to cause the endorsement, dating and delivery (or fail to endorse, date and deliver) of the certificate

of ownership or certificate of title of the mobilehome, and, when having possession, to fail to deliver the registration card to a transferee who is lawfully entitled to a transfer of registration. Except when the certificate of ownership or certificate of title is demanded in writing by a purchaser the licensee shall satisfy the delivery requirement of this subdivision by submitting appropriate documents and fees to the Department of Housing and Community Development for transfer of registration in accordance with Chapter 4.7 (commencing with Section 18075) of Part 2 of Division 13 of the Health and Safety Code and rules and regulations promulgated thereunder.

SEC. 2.5. Section 10131.7 of the Business and Professions Code is amended to read:

10131.7. It is unlawful for any real estate licensee acting under authority of Section 10131.6:

(a) To advertise or offer for sale in any manner any mobilehome unless it is either in place on a lot rented or leased for human habitation within an established mobilehome park as defined in Section 18214 of the Health and Safety Code and the advertising or offering for sale is not contrary to any terms of a contract between the seller of the mobilehome and the owner of the mobilehome park, or is otherwise located, pursuant to a local zoning ordinance or permit, on a lot where its presence has been authorized or its continued presence and such use would be authorized for a total and uninterrupted period of at least one year.

(b) To fail to withdraw any advertisement of a mobilehome for sale, lease or exchange within 48 hours after his receipt of notice that the mobilehome is no longer available for sale, lease or exchange.

(c) To advertise or represent a mobilehome as a new mobilehome.

(d) To include as an added cost to the selling price of a mobilehome, an amount for licensing, as prescribed by Section 10751 of the Revenue and Taxation Code, except where the buyer and seller agree to the proration of the license fees for the applicable license period, or transfer of title of the mobilehome as a vehicle, which amount is not due to the state unless, prior to the sale, such amount has been paid by the licensee to the state in order to avoid penalties that would have accrued because of late payment of such fees.

(e) To make any representation that a mobilehome is capable of being transported on California highways if the mobilehome does not meet all of the equipment requirements applicable to mobilehomes of Division 12 (commencing with Section 24000) of the Vehicle Code, or to fail to disclose any material fact respecting such equipment requirements.

(f) To advertise or otherwise represent, or knowingly to allow to be advertised or represented on his behalf or at his place of business, that no downpayment is required in connection with the sale of a mobilehome when downpayment is in fact, required and the buyer is advised or induced to finance such downpayment by a loan in

addition to any other loan financing the remainder of the purchase price of the mobilehome.

(g) To fail or neglect properly to cause the endorsement, dating and delivery (or fail to endorse, date and deliver) of the certificate of ownership or certificate of title of the mobilehome, and, when having possession, to fail to deliver the registration card to a transferee who is lawfully entitled to a transfer of registration. Except when the certificate of ownership or certificate of title is demanded in writing by a purchaser the licensee shall satisfy the delivery requirement of this subdivision by submitting appropriate documents and fees to the Department of Housing and Community Development for transfer of registration in accordance with Chapter 4.7 (commencing with Section 18075) of Part 2 of Division 13 of the Health and Safety Code and rules and regulations promulgated thereunder.

SEC. 3. Section 10177.2 of the Business and Professions Code is amended to read:

10177.2. The commissioner may, upon his own motion, and shall, upon the verified complaint in writing of any person, investigate the actions of any licensee, and he may suspend or revoke a real estate license at any time where the licensee in performing or attempting to perform any of the acts within the scope of Section 10131.6 has been guilty of any of the following acts:

(a) 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 mobilehome, or otherwise committed a fraud in such application.

(b) Failed to provide for the delivery of a properly endorsed certificate of ownership or certificate of title of a mobilehome from the seller to the buyer thereof.

(c) Has knowingly participated in the purchase, sale, or other acquisition or disposal of a stolen mobilehome.

(d) Has violated one or more of the terms and provisions of Part 2 (commencing with Section 18000) of Division 13 of the Health and Safety Code, or Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code, or Chapter 2b (commencing with Section 2981) of Title 14 of Part 4 of Division 3 of the Civil Code, or a rule or regulation adopted pursuant thereto.

(e) Has submitted a check, draft, or money order to the Department of Housing and Community Development for any obligation or fee due the state and it is thereafter dishonored or refused payment upon presentation.

SEC. 4. Section 798.55 of the Civil Code is amended to read:

798.55. (a) The Legislature finds and declares that, because of the high cost of moving mobilehomes, the potential for damage resulting therefrom, the requirements relating to the installation of mobilehomes, and the cost of landscaping or lot preparation, it is necessary that the owners of mobilehomes occupied within mobilehome parks be provided with the unique protection from actual or constructive eviction afforded by the provisions of this chapter.

(b) The management shall not terminate or refuse to renew a tenancy, except for a reason specified in this article and upon the giving of written notice to the tenant in the manner prescribed by Section 1162 of the Code of Civil Procedure, to remove the mobilehome from the park within a period of not less than 60 days, which period shall be specified in the notice. A copy of this notice shall be sent to the legal owner and registered owner of the mobilehome, if other than the tenant, by United States mail on the same day as notice is given to the tenant, addressed to the legal and registered owners at their addresses, as set forth in the registration card specified in Section 18075.28 of the Health and Safety Code.

SEC. 5. Section 798.56 of the Civil Code is amended to read:

798.56. A tenancy shall be terminated by the management only for one or more of the following reasons:

(a) Failure of the tenant to comply with a local ordinance or state law or regulation relating to mobilehomes within a reasonable time after the tenant receives a notice of noncompliance from the appropriate governmental agency.

(b) Conduct by the tenant, upon the park premises, which constitutes a substantial annoyance to other tenants.

(c) Failure of the tenant to comply with a reasonable rule or regulation of the park as set forth in the rental agreement or any amendment thereto.

No act or omission of the tenant shall constitute such a failure to comply unless and until the management has given the tenant written notice of the alleged rule or regulation violation and the tenant has failed to adhere to the rule or regulation within seven days.

(d) Nonpayment of rent, utility charges, or reasonable incidental service charges; provided, that the tenant shall be given a three-day written notice to pay the amount due or to vacate the tenancy. The three-day written notice shall be given to the tenant in the manner prescribed by Section 1162 of the Code of Civil Procedure. Such notice may be given at the same time as the 60 days' notice required for termination of the tenancy. Payment by the tenant prior to the expiration of the three-day notice period, or payment by the legal owner, as defined in Section 18007 of the Health and Safety Code, or registered owner, as defined in Section 18010.2 of the Health and Safety Code, if other than the tenant, on behalf of the tenant prior to the expiration of 30 calendar days following the mailing of the notice to the legal owner or registered owner provided in subdivision (b) of Section 798.55, shall cure a default under this subdivision with respect to such payment. The tenant shall remain liable for all payments due up until the time the tenancy is vacated. Cure of a default of rent, utility charges, or reasonable incidental service charges by the legal owner or registered owner, if other than the tenant, as provided by this subdivision, may not be exercised more than twice during the term of the tenancy.

(e) Condemnation of the park.

(f) Change of use of the park or any portion thereof, provided:

(1) The management gives the tenants at least 15 days' written

notice that the management will be appearing before a local governmental board, commission, or body to request permits for a change of use of the mobilehome park.

(2) The management gives the tenants 12 months' or more written notice of the proposed change after the management has made initial application to the local governmental board, commission, or body requesting a change of use. Provided, however, that no tenant shall be required to vacate until all required permits for a change of use have been obtained. After all required permits have been obtained and the 12-month or more period specified in the notice has elapsed, the notice specified in Section 798.55 may be given.

If the change of use requires no local governmental permits, then notice shall be given 12 months or more prior to the management's determination that a change of use will occur. The management in the notice shall disclose and describe in detail the nature of the change of use.

(3) The management gives each proposed tenant written notice thereof prior to the inception of his tenancy that the management is requesting a change of use before local governmental bodies or that a change of use request has been granted.

(4) The notice requirements for termination of tenancy set forth in Sections 798.55, 798.56, and 798.57 shall be followed if the proposed change actually occurs.

(5) A notice of a proposed change of use given prior to January 1, 1980, which conforms to the requirements in effect at that time shall be valid. The requirements for a notice of a proposed change of use imposed by this subdivision shall only apply to notices given on or after January 1, 1980.

SEC. 6. Section 1801.4 of the Civil Code, as amended by Chapter 437 of the Statutes of 1980, is amended to read:

1801.4. The provisions of this chapter shall not apply to any contract or series of contracts providing for: (a) the construction, sale, or construction and sale of an entire residence, including a mobilehome, or all or part of a structure designed for commercial or industrial occupancy, with or without a parcel of real property or an interest therein, (b) for the sale of a lot or parcel of real property, including any site preparation incidental to such sale, (c) the sale of any aircraft required to be registered under the Federal Aviation Act of 1958, or (d) the sale of any vessel as defined in subdivision (a) of Section 9840 of the Vehicle Code if the cash price of such vessel, including accessories and equipment sold in conjunction therewith, exceeds twenty-five thousand dollars (\$25,000).

SEC. 7. Section 2981 of the Civil Code is amended to read:

2981. As used in this chapter, unless the context otherwise requires:

(a) "Conditional sale contract" means:

(1) Any contract for the sale of a motor vehicle between a buyer and a seller, with or without accessories, under which possession is delivered to the buyer but the title vests in the buyer thereafter only

upon the payment of all or part of the price, or upon the performance of any other condition, or

(2) Any contract for the bailment of a motor vehicle between a buyer and a seller, with or without accessories, by which the bailee or lessee agrees to pay as compensation for use a sum substantially equivalent to or in excess of the aggregate value of the vehicle and its accessories, if any, at the time the contract is executed, and by which it is agreed that the bailee or lessee will become, or for no other or for a nominal consideration has the option of becoming, the owner of the vehicle upon full compliance with the terms of the contract, or

(3) Any contract for the sale of a motor vehicle between a buyer and a seller, with or without accessories, under which possession is delivered to the buyer, and a lien on the property is to vest in the seller as security for the payment of part or all of the price, or for the performance of any other condition.

(b) "Seller" means a person engaged in the business of selling or leasing motor vehicles under conditional sale contracts.

(c) "Buyer" means the person who buys or hires a motor vehicle under a conditional sale contract.

(d) "Person" includes an individual, company, firm, association, partnership, trust, corporation, or other legal entity.

(e) "Cash price" means the amount for which the seller would sell and transfer to the buyer unqualified title to the motor vehicle described in the conditional sale contract, if the property were sold for cash at the seller's place of business on the date the contract is executed, and may include taxes to the extent imposed on the cash sale and the cash price of accessories or services related to the sale such as delivery, installation, alterations, modifications, and improvements.

(f) "Downpayment" means any payment which the buyer pays or agrees to pay to the seller in cash or property value or money's worth at or prior to delivery by the seller to the buyer of the motor vehicle described in the conditional sale contract.

(g) "Unpaid balance" means the difference between (e) and (f), plus all insurance premiums (except for credit life or disability insurance when the amount thereof is included in the finance charge), which are included in the contract balance, and the total amount paid or to be paid (1) to any public officer in connection with the transaction, and (2) for license, certificate of title, and registration fees imposed by law.

(h) "Finance charge" means any amount which the buyer agrees to pay to the seller in excess of the unpaid balance.

(i) "Total of payments" or "contract balance" means the amount unpaid under the conditional sale contract, which the buyer agrees to pay in installments to the seller as originally provided therein, and shall not include amounts for which the buyer may later become obligated under the terms of the contract in connection with insurance, repairs to or preservation of the motor vehicle, preservation of the security interest therein, or otherwise. Either term may be used in lieu of the other in complying with this chapter.

(j) "Motor vehicle" means any vehicle required to be registered under the Vehicle Code which is bought for use primarily for personal or family purposes, and does not mean any vehicle which is bought for use primarily for business or commercial purposes.

(k) "Purchase order" means a sales order, car reservation, statement of transaction or any other such instrument used in the conditional sale of a motor vehicle pending execution of a conditional sale contract. The purchase order shall conform to the disclosure requirements of paragraphs 1 to 7, inclusive, and paragraphs 10 and 11 of subdivision (a) of Section 2982 and Section 2984.1 and the provisions of subdivisions (f) and (g) of Section 2982 shall be applicable thereto.

(l) "Regulation Z" means any rule, regulation or interpretation promulgated by the Board of Governors of the Federal Reserve System ("Board") under the federal Truth in Lending Act, as amended (15 U.S.C. 1601, et seq.), and any interpretation or approval issued by an official or employee of the Federal Reserve System duly authorized by the board under the Truth in Lending Act, as amended, to issue such interpretations or approvals.

(m) "Simple-interest basis" means the determination of a finance charge, other than an administrative finance charge, by applying a constant rate to the unpaid balance as it changes from time to time either:

(1) Calculated on the basis of a 365-day year and actual days elapsed (although the seller may, but need not, adjust its calculations to account for leap years); reference in this chapter to the "365-day basis" shall mean this method of determining the finance charge, or

(2) For contracts entered into prior to January 1, 1988, calculated on the basis of a 360-day year consisting of 12 months of 30 days each and on the assumption that all payments will be received by the seller on their respective due dates; reference in this chapter to the "360-day basis" shall mean this method of determining the finance charge.

(n) "Precomputed basis" means the determination of a finance charge by multiplying the original unpaid balance of the contract by a rate and multiplying that product by the number of payment periods elapsing between the date of the contract and the date of the last scheduled payment.

SEC. 7.5. Section 2981 of the Civil Code, as amended by Assembly Bill No. 3393 of the 1979-80 Regular Session, is amended to read:

2981. As used in this chapter, unless the context otherwise requires:

(a) "Conditional sale contract" means:

(1) Any contract for the sale of a motor vehicle between a buyer and a seller, with or without accessories, under which possession is delivered to the buyer and either (A) the title vests in the buyer thereafter only upon the payment of all or a part of the price, or the performance of any other condition, or (B) a lien on the property is to vest in the seller as security for the payment of part or all of the price, or for the performance of any other condition, or

(2) Any contract for the bailment of a motor vehicle between a buyer and a seller, with or without accessories, by which the bailee or lessee agrees to pay as compensation for use a sum substantially equivalent to or in excess of the aggregate value of the vehicle and its accessories, if any, at the time the contract is executed, and by which it is agreed that the bailee or lessee will become, or for no other or for a nominal consideration has the option of becoming, the owner of the vehicle upon full compliance with the terms of the contract.

(b) "Seller" means a person engaged in the business of selling or leasing motor vehicles under conditional sale contracts.

(c) "Buyer" means the person who buys or hires a motor vehicle under a conditional sale contract.

(d) "Person" includes an individual, company, firm, association, partnership, trust, corporation, or other legal entity.

(e) "Cash price" means the amount for which the seller would sell and transfer to the buyer unqualified title to the motor vehicle described in the conditional sale contract, if the property were sold for cash at the seller's place of business on the date the contract is executed, and may include taxes to the extent imposed on the cash sale and the cash price of accessories or services related to the sale such as delivery, installation, alterations, modifications, and improvements, or a service contract.

(f) "Downpayment" means any payment which the buyer pays or agrees to pay to the seller in cash or property value or money's worth at or prior to delivery by the seller to the buyer of the motor vehicle described in the conditional sale contract. The term does not include any administrative finance charge charged, received or collected by the seller pursuant to paragraph (3) of subdivision (c) of Section 2982 and shown under paragraph (9) of subdivision (a) of Section 2982.

(g) "Unpaid balance" means the difference between (e) and (f), plus all insurance premiums (except for credit life or disability insurance when the amount thereof is included in the finance charge), which are included in the contract balance, and the total amount paid or to be paid (1) to any public officer in connection with the transaction, and (2) for license, certificate of title, and registration fees imposed by law, the amount of the state fee for issuance of a certificate of compliance or certificate of waiver pursuant to Section 9889.56 of the Business and Professions Code and the amount charged by the seller for documentary preparation.

(h) "Finance charge" means any amount which the buyer agrees to pay to the seller in excess of the unpaid balance. The term shall not include delinquency charges or collection costs and fees as provided by subdivision (d) of Section 2982, extension or deferral agreement charges as provided by Section 2982.3, or amounts for insurance, repairs to or preservation of the motor vehicle, or preservation of the security interest therein advanced by the holder under the terms of the contract.

(i) "Total of payments" or "contract balance" means the amount unpaid under the conditional sale contract, which the buyer agrees to pay in installments to the seller as originally provided therein, and

shall not include amounts for which the buyer may later become obligated under the terms of the contract in connection with insurance, repairs to or preservation of the motor vehicle, preservation of the security interest therein, or otherwise. Either term may be used in lieu of the other in complying with this chapter.

(j) "Motor vehicle" means any vehicle required to be registered under the Vehicle Code which is bought for use primarily for personal or family purposes, and does not mean any vehicle which is bought for use primarily for business or commercial purposes.

(k) "Purchase order" means a sales order, car reservation, statement of transaction or any other such instrument used in the conditional sale of a motor vehicle pending execution of a conditional sale contract. The purchase order shall conform to the disclosure requirements of paragraphs 1 to 7, inclusive, and paragraphs 10 and 11 of subdivision (a) of Section 2982 and Section 2984.1 and the provisions of subdivisions (f) and (g) of Section 2982 shall be applicable thereto.

(l) "Regulation Z" means any rule, regulation or interpretation promulgated by the Board of Governors of the Federal Reserve System ("Board") under the federal Truth in Lending Act, as amended (15 U.S.C. 1601, et seq.), and any interpretation or approval issued by an official or employee of the Federal Reserve System duly authorized by the board under the Truth in Lending Act, as amended, to issue such interpretations or approvals.

(m) "Simple-interest basis" means the determination of a finance charge, other than an administrative finance charge, by applying a constant rate to the unpaid balance as it changes from time to time either:

(1) Calculated on the basis of a 365-day year and actual days elapsed (although the seller may, but need not, adjust its calculations to account for leap years); reference in this chapter to the "365-day basis" shall mean this method of determining the finance charge, or

(2) For contracts entered into prior to January 1, 1988, calculated on the basis of a 360-day year consisting of 12 months of 30 days each and on the assumption that all payments will be received by the seller on their respective due dates; reference in this chapter to the "360-day basis" shall mean this method of determining the finance charge.

(n) "Precomputed basis" means the determination of a finance charge by multiplying the original unpaid balance of the contract by a rate and multiplying that product by the number of payment periods elapsing between the date of the contract and the date of the last scheduled payment.

(o) "Service contract" means a contract in writing to perform, over a fixed period of time or for a specified duration, services relating to the maintenance or repair, or both, of the motor vehicle described in the conditional sale contract.

SEC. 8. Section 2982 of the Civil Code, as added by Section 1.6 of Chapter 1160 of the Statutes of 1979, is amended to read:

2982. (a) Every conditional sale contract for the sale of a motor vehicle, with or without accessories, shall be in writing and, if

printed, shall be printed in type no smaller than 6-point, and shall contain in a single document all of the agreements of the buyer and seller with respect to the total cost and the terms of payment for the motor vehicle, including any promissory notes or any other evidences of indebtedness. The conditional sale contract or a purchase order shall be signed by the buyer or his authorized representative and by the seller or its authorized representative, and an exact copy thereof shall be furnished the buyer by the seller at the time the buyer and the seller have signed the contract or purchase order. No motor vehicle shall be delivered under this chapter until the seller delivers to the buyer a fully executed copy of the conditional sale contract or purchase order and any vehicle purchase proposal and any credit statement which the seller has required or requested the buyer to sign, and which he has signed, during the contract negotiations. The seller shall not obtain the signature of the buyer to a contract when it contains blank spaces to be filled in after it has been signed. Every conditional sale contract shall contain, although not necessarily in the sequence or order set forth below, the following separate items:

(1) The cash price of the motor vehicle described in the conditional sale contract.

(2) The amount of the buyer's downpayment, and whether made in cash or represented by the net agreed value of described property traded in, or both, together with a statement of the respective amounts credited for cash and for such property.

(3) The unpaid balance of cash price, which is the difference between items 1 and 2.

(4) The cost to the buyer of any insurance, the premium for which is included in the contract balance. Any such cost for credit life or disability insurance may be included in the finance charge if the amount thereof is separately stated on the face of the contract.

(5) The amounts, if any, paid or to be paid to any public officer in connection with the transaction and for license, certificate of title, and registration fees imposed by law.

(6) The amount of the state fee for issuance of a certificate of compliance or certificate of waiver pursuant to Section 9889.56 of the Business and Professions Code.

(7) The amount, if any, charged by the dealer for documentary preparation. If a dealer charges a buyer a documentary preparation charge, then the contract shall contain a notice advising the buyer that such charge is not a governmental fee.

(8) The amount of the unpaid balance, which is the sum of items 3, 4, 5, 6, and 7.

(9) The amount, if any, of an administrative finance charge.

(10) The amount financed, which is the difference between items 8 and 9.

(11) The finance charge (i) expressed as the annual percentage rate as defined in Regulation Z and (ii) expressed in dollars.

(12) The number, amount and due dates or periods of payments scheduled to repay the indebtedness and the sum of such payments.

(13) The names and addresses of all persons to whom the notice required under Section 2983.2 and permitted under Sections 2983.5 and 2984 of this code is to be sent.

(14) (A) Where the contract includes a finance charge determined on the precomputed basis, an identification of the method of computing the unearned portion of the finance charge in the event of prepayment in full of the buyer's obligation and a statement of the amount or method of computation of any charge that may be deducted from the amount of any rebate of such unearned finance charge that will be credited to the obligation or refunded to the buyer. Reference to the Rule of 78's, the sum of the digits, the sum of the periodic time balances or the actuarial method shall constitute a sufficient identification of the method of computing the unearned portion of the finance charge.

(B) Where the contract includes a finance charge which is determined on the simple-interest basis but provides for a minimum finance charge in the event of prepayment in full, a statement of that fact and the amount of the minimum finance charge or its method of calculation.

(15) (A) Where the contract includes a finance charge which is determined on the precomputed basis, a notice, in at least 8-point bold type if the contract is printed, reading as follows: "Notice to the buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and under certain conditions obtain a partial refund of the finance charge. Because the refund will be figured by the Rule of 78's, the time when you prepay may affect the ultimate cost of credit under this agreement. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(B) Where the contract includes a finance charge which is determined on the simple-interest basis, a notice, in a least 8-point bold type if the contract is printed, reading as follows: "Notice to the buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(16) A notice to the buyer, in writing, and, if printed, in type no smaller than 8-point, that complaints concerning unfair or deceptive practices or methods by the seller shall be referred to the seller and, if the complaint is not resolved, may be referred to the Department of Motor Vehicles, Division of Compliance, 2570 24th Street, Sacramento, 95818.

Additional items may be included to explain the computations made in determining the amount to be paid by the buyer. If the

finance charge or any portion thereof is calculated on the 365-day basis, the amount of the finance charge shown pursuant to item 11 shall be the amount which will be incurred by the buyer if all payments are received by the seller on their respective due dates.

(b) If any charge for insurance (other than for credit life or disability) is included in the contract balance and disbursement of any part thereof be made more than one year after the date of the conditional sale contract, any finance charge on the amount to be disbursed after one year shall be computed from the month the disbursement is to be made to the due date of the last installment under the conditional sale contract.

(c) (1) If the finance charge is determined by the precomputed basis, the dollar amount of the finance charge shown pursuant to item 13 of subdivision (a) shall not exceed the greater of:

(A) One percent of the unpaid balance multiplied by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment; or

(B) Twenty-five dollars (\$25).

(2) If the finance charge or a portion thereof is determined by the simple-interest basis, the dollar amount of the finance charge shown pursuant to item 11 of subdivision (a) shall not exceed the greater of:

(A) The product of the unpaid balance multiplied by the maximum annual percentage rate (as defined in Regulation Z) which would be permitted if subparagraph (A) of paragraph (1) were applicable to the contract; or

(B) (i) Twenty-five dollars (\$25) if the unpaid balance does not exceed one thousand dollars (\$1,000), (ii) fifty dollars (\$50) if the unpaid balance exceeds one thousand dollars (\$1,000) but does not exceed two thousand dollars (\$2,000), or (iii) seventy-five dollars (\$75) if the unpaid balance exceeds two thousand dollars (\$2,000).

(3) The holder of the contract shall not charge, collect or receive a finance charge which exceeds the dollar amount shown pursuant to item 11 of subdivision (a), except to the extent caused by (A) the holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled, (B) the use of estimations in the providing of the disclosures required by this chapter to the extent permitted by Regulation Z, or (C) as permitted by subdivision (c) of Section 2982.8.

(4) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds five thousand dollars (\$5,000), the holder of the contract may, in lieu of its right to a minimum finance charge under subparagraph (B) of paragraph (2), charge, receive or collect on the date of the contract an administrative finance charge not to exceed seventy-five dollars (\$75) provided that the sum of any such administrative finance charge and the portion of the finance charge determined by the

simple-interest basis shall not exceed the maximum total finance charge permitted by subparagraph (A) of paragraph (2). Any administrative finance charge which is charged, received or collected by a holder shall be deemed a finance charge earned on the date of the contract.

(d) The contract may provide for a delinquency charge or charges on any installment in default for a period of not less than 10 days in an amount not to exceed in the aggregate 5 percent of the installment, which amount may be collected only once on any installment regardless of the period during which it remains in default. The contract may provide for reasonable collection costs and fees in the event of delinquency.

(e) Notwithstanding any provision of a contract to the contrary, the buyer may pay at any time before maturity the entire indebtedness evidenced by the contract without penalty. In the event of prepayment in full:

(1) If the finance charge was determined on the precomputed basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, provided, however, that the buyer shall be entitled to a refund credit in the amount of the unearned portion of the finance charge, except as provided in paragraphs (3) and (4). The amount of the unearned portion of the finance charge shall be at least as great a proportion of the finance charge, or if the contract has been extended, deferred or refinanced, of the additional charge therefor, as the sum of the periodic monthly time balances payable more than 15 days after the date of prepayment bears to the sum of all the periodic monthly time balances under the schedule of installments in the contract or, if the contract has been extended, deferred or refinanced, as so extended, deferred or refinanced. Where the amount of the refund credit is less than one dollar (\$1), no refund credit need be made by the holder. Any refund credit in the amount of one dollar (\$1) or more may be made in cash or credited to the outstanding obligations of the buyer under the contract.

(2) If the finance charge or a portion thereof was determined on the simple-interest basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, including any earned finance charges which are unpaid as of that date and, if applicable, the amount provided in paragraph (3), and provided further that in cases where a finance charge is determined on the 360-day basis, the payments theretofore received will be assumed to have been received on their respective due dates regardless of the actual dates on which such payments were received.

(3) Where the minimum finance charge provided by subparagraph (B) of paragraph (1) of subdivision (c) or subparagraph (B) of paragraph (2) of subdivision (c), if either is applicable, is greater than the earned finance charge as of the date of prepayment, the holder shall be additionally entitled to the difference.

(4) The provisions of this subdivision shall not impair the right of the seller or his assignee to receive delinquency charges on

delinquent installments and reasonable costs and fees as provided in subdivision (d) of this section.

(f) Notwithstanding any other provision of this chapter to the contrary, in the event any required downpayment on which no finance charge is imposed is to be made by the buyer to the seller on a conditional sale contract after the date of such contract but prior to the date of the second payment otherwise scheduled, the amount of such payment may be shown in such contract as a deferred portion of the cash downpayment or, if the finance charge is determined on the precomputed basis, as a deduction from the amount of the unpaid balance, and shall be included in the total of payments.

(g) Notwithstanding any other provision of this chapter to the contrary, any information required to be disclosed in a conditional sale contract under this chapter may be disclosed in any manner, method, or terminology required or permitted under Regulation Z, as in effect at the time such disclosure is made. Nothing contained in this chapter shall be deemed to prohibit the disclosure in such contract of additional information required or permitted under Regulation Z, as in effect at the time such disclosure is made.

(h) This section shall become operative on January 1, 1981.

SEC. 8.5. Section 2982 of the Civil Code, as added by Section 1.6 of Chapter 1160 of the Statutes of 1979, and as amended by Section 22 of Assembly Bill No. 3393 of the 1979-80 Regular Session, is amended to read:

2982. (a) Every conditional sale contract for the sale of a motor vehicle, with or without accessories, shall be in writing and, if printed, shall be printed in type no smaller than 6-point, and shall contain in a single document all of the agreements of the buyer and seller with respect to the total cost and the terms of payment for the motor vehicle, including any promissory notes or any other evidences of indebtedness. The conditional sale contract or a purchase order shall be signed by the buyer or his authorized representative and by the seller or its authorized representative, and an exact copy thereof shall be furnished the buyer by the seller at the time the buyer and the seller have signed the contract or purchase order. No motor vehicle shall be delivered under this chapter until the seller delivers to the buyer a fully executed copy of the conditional sale contract or purchase order and any vehicle purchase proposal and any credit statement which the seller has required or requested the buyer to sign, and which he has signed, during the contract negotiations. The seller shall not obtain the signature of the buyer to a contract when it contains blank spaces to be filled in after it has been signed. Every conditional sale contract shall contain, although not necessarily in the sequence or order set forth below, the following separate items:

(1) The cash price of the motor vehicle and of other items described in subdivision (e) of Section 2981 which are the subject of the conditional sale contract.

(2) The amount of the buyer's downpayment, and whether made in cash or represented by the net agreed value of described property traded in, or both, together with a statement of the respective

amounts credited for cash and for such property, but excluding any administrative finance charge shown in item 9.

(3) The unpaid balance of cash price, which is the difference between items 1 and 2.

(4) The cost to the buyer of any insurance, the premium for which is included in the contract balance. Any such cost for credit life or disability insurance may be included in the finance charge if the amount thereof is separately stated on the face of the contract.

(5) The amounts, if any, paid or to be paid to any public officer in connection with the transaction and for license, certificate of title, and registration fees imposed by law.

(6) The amount of the state fee for issuance of a certificate of compliance or certificate of waiver pursuant to Section 9889.56 of the Business and Professions Code.

(7) The amount, if any, charged by the seller for documentary preparation. If a seller charges a buyer a documentary preparation charge, then the contract shall contain a notice advising the buyer that such charge is not a governmental fee.

(8) The amount of the unpaid balance, which is the sum of items 3, 4, 5, 6, and 7.

(9) The amount, if any, of an administrative finance charge.

(10) The amount financed, which is the difference between items 8 and 9.

(11) The finance charge (A) expressed as the annual percentage rate as defined in Regulation Z and (B) expressed in dollars.

(12) The number, amount and due dates or periods of payments scheduled to repay the indebtedness and the sum of such payments.

(13) The names and addresses of all persons to whom the notice required under Section 2983.2 and permitted under Sections 2983.5 and 2984 of this code is to be sent.

(14) (A) Where the contract includes a finance charge determined on the precomputed basis, an identification of the method of computing the unearned portion of obligation and a statement of the amount or method of computation of any charge that may be deducted from the amount of any such unearned finance charge in computing the amount that will be credited to the obligation or refunded to the buyer. Reference to the Rule of 78's, the sum of the digits, the sum of the periodic time balances or the actuarial method shall constitute a sufficient identification of the method of computing the unearned portion of the finance charge.

(B) Where the contract includes a finance charge which is determined on the simple-interest basis but provides for a minimum finance charge in the event of prepayment in full, a statement of that fact and the amount of the minimum finance charge or its method of calculation.

(15) (A) Where the contract includes a finance charge which is determined on the precomputed basis and provides that the unearned portion of the finance charge to be refunded upon full prepayment of the contract is to be determined by a method other than actuarial, a notice in at least 10-point bold type if the contract is printed, reading as follows: "Notice to buyer: (1) Do not sign this

agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and obtain a partial refund of the finance charge if it is \$1 or more. Because of the way the amount of this refund will be figured, the time when you prepay could increase the ultimate cost of credit under this agreement. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement.”

(B) Where the contract includes a finance charge which is determined on the precomputed basis and provides for the actuarial method for computing the unearned portion of the finance charge upon prepayment in full, a notice in at least 10-point bold type if the contract is printed, reading as follows: “Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and obtain a partial refund of the finance charge if it is \$1 more. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement.”

(C) Where the contract includes a finance charge which is determined on the simple-interest basis, a notice, in a least 10-point bold type if the contract is printed, reading as follows: “Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement.”

(16) A notice to the buyer, in writing, and, if printed, in type no smaller than 8-point, that complaints concerning unfair or deceptive practices or methods by the seller shall be referred to the seller and, if the complaint is not resolved, may be referred to the Department of Motor Vehicles, Division of Compliance, 2570 24th Street, Sacramento, 95818.

Additional items may be included to explain the computations made in determining the amount to be paid by the buyer. If the finance charge or any portion thereof is calculated on the 365-day basis, the amount of the finance charge shown pursuant to item 11 shall be the amount which will be incurred by the buyer if all payments are received by the seller on their respective due dates.

(b) If any charge for insurance (other than for credit life or disability) is included in the contract balance and disbursement of any part thereof be made more than one year after the date of the conditional sale contract, any finance charge on the amount to be disbursed after one year shall be computed from the month the

disbursement is to be made to the due date of the last installment under the conditional sale contract.

(c) (1) The dollar amount of the finance charge shown pursuant to item 11 of subdivision (a) shall not exceed the greater of:

(A) One percent of the unpaid balance multiplied by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment; or

(B) If the finance charge is determined by the precomputed basis, twenty-five dollars (\$25); or

(C) If the finance charge or a portion thereof is determined by the simple-interest basis:

(i) Twenty-five dollars (\$25) if the unpaid balance does not exceed one thousand dollars (\$1,000), (ii) fifty dollars (\$50) if the unpaid balance exceeds one thousand dollars (\$1,000) but does not exceed two thousand dollars (\$2,000), or (iii) seventy-five dollars (\$75) if the unpaid balance exceeds two thousand dollars (\$2,000).

(2) The holder of the contract shall not charge, collect or receive a finance charge which exceeds the dollar amount shown pursuant to item 11 of subdivision (a), except to the extent caused by (A) the holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled whether or not the parties enter into an agreement pursuant to Section 2982.3, (B) the use of estimations in the providing of the disclosures required by this chapter to the extent permitted by Regulation Z, or (C) as permitted by subdivisions (a) and (c) of Section 2982.8.

(3) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds five thousand dollars (\$5,000), the holder of the contract may, in lieu of its right to a minimum finance charge under subparagraph (C) of paragraph (1), charge, receive, or collect on the date of the contract an administrative finance charge not to exceed seventy-five dollars (\$75), provided that the sum of any such administrative finance charge and the portion of the finance charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by subparagraph (A) of paragraph (1). Any administrative finance charge which is charged, received or collected by a holder shall be deemed a finance charge earned on the date of the contract.

(d) The contract may provide that for each installment in default for a period of not less than 10 days the buyer shall pay a delinquency charge in an amount not to exceed in the aggregate 5 percent of the installment, which amount may be collected only once on any installment regardless of the period during which it remains in default. Payments timely received by the seller under an extension or deferral agreement shall not be subject to a delinquency charge. The contract may provide for reasonable collection costs and fees in the event of delinquency.

(e) Notwithstanding any provision of a contract to the contrary, the buyer may pay at any time before maturity the entire indebtedness evidenced by the contract without penalty. In the event of prepayment in full:

(1) If the finance charge was determined on the precomputed basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, provided, however, that the buyer shall be entitled to a refund credit in the amount of the unearned portion of the finance charge, except as provided in paragraphs (3) and (4). The amount of the unearned portion of the finance charge shall be at least as great a proportion of the finance charge, or if the contract has been extended, deferred or refinanced, of the additional charge therefor, as the sum of the periodic monthly time balances payable more than 15 days after the date of prepayment bears to the sum of all the periodic monthly time balances under the schedule of installments in the contract or, if the contract has been extended, deferred or refinanced, as so extended, deferred or refinanced. Where the amount of the refund credit is less than one dollar (\$1), no refund credit need be made by the holder. Any refund credit in the amount of one dollar (\$1) or more may be made in cash or credited to the outstanding obligations of the buyer under the contract.

(2) If the finance charge or a portion thereof was determined on the simple-interest basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, including any earned finance charges which are unpaid as of that date and, if applicable, the amount provided in paragraph (3), and provided further that in cases where a finance charge is determined on the 360-day basis, the payments theretofore received will be assumed to have been received on their respective due dates regardless of the actual dates on which such payments were received.

(3) Where the minimum finance charge provided by subparagraph (B) or subparagraph (C) of paragraph (1) of subdivision (c), if either is applicable, is greater than the earned finance charge as of the date of prepayment, the holder shall be additionally entitled to the difference.

(4) The provisions of this subdivision shall not impair the right of the seller or the seller's assignee to receive delinquency charges on delinquent installments and reasonable costs and fees as provided in subdivision (d) of this section or extension or deferral agreement charges as provided in Section 2982.3.

(5) Notwithstanding any provision of a contract to the contrary, whenever the indebtedness created by any contract is satisfied prior to its maturity through surrender of the motor vehicle, repossession of the motor vehicle, redemption of the motor vehicle after repossession, or any judgment, the outstanding obligation of the buyer shall be determined as provided in paragraph (1) or (2); provided further that the buyer's outstanding obligation shall be computed by the holder as of the date the holder recovers the value of the motor vehicle through disposition thereof or judgment is entered or, if the holder elects to keep the motor vehicle in

satisfaction of the buyer's indebtedness, as of the date the holder takes possession of the motor vehicle.

(f) Notwithstanding any other provision of this chapter to the contrary, in the event any required downpayment on which no finance charge is imposed is to be made by the buyer to the seller on a conditional sale contract after the date of such contract but prior to the date of the second payment otherwise scheduled, the amount of such payment may be shown in such contract as a deferred portion of the cash downpayment or, if the finance charge is determined on the precomputed basis, as a deduction from the amount of the unpaid balance, and shall be included in the total of payments.

(g) Notwithstanding any other provision of this chapter to the contrary, any information required to be disclosed in a conditional sale contract under this chapter may be disclosed in any manner, method, or terminology required or permitted under Regulation Z, as in effect at the time such disclosure is made. Nothing contained in this chapter shall be deemed to prohibit the disclosure in such contract of additional information required or permitted under Regulation Z, as in effect at the time such disclosure is made.

(h) This section shall become operative on July 1, 1981.

SEC. 9. Section 2982.8 of the Civil Code is amended to read:

2982.8. (a) If a buyer is obligated under the terms of the conditional sale contract to maintain insurance on the vehicle and subsequent to the execution of the contract the buyer either fails to maintain or requests the holder to procure such insurance, any amounts advanced by the holder to procure such insurance may be added to the contract balance. Such amounts shall be secured by the motor vehicle provided that the holder notifies the buyer in writing of his or her option to repay such amounts in any one of the following ways:

(1) Full payment within 10 days from the date of giving or mailing the notice.

(2) Full amortization during the term of the insurance.

(3) Full amortization after the term of the conditional sale contract to be payable in installments which do not exceed the average payment allocable to a monthly period under the contract. The option offered under this subparagraph shall not apply to any industrial loan company licensed pursuant to Division 7 (commencing with Section 18000) of the Financial Code.

(4) If offered by the holder, any other amortization plan.

If the buyer neither pays in full the amounts advanced nor notifies the holder in writing of his or her choice regarding amortization options before the expiration of 10 days from the date of giving or mailing the notice by the holder, the holder may amortize the amounts advanced on a secured basis pursuant to either paragraph (2) or (3) of this subdivision.

(b) The written notification described in subdivision (a) shall also set forth the amounts advanced by the holder and, with respect to each amortization plan the amount of the additional finance charge, the sum of the amounts advanced and the additional finance charge,

the number of installments required, the amount of each installment and the date for payment of the installments.

(c) The maximum rate of finance charge which may be imposed on amounts advanced by the holder subsequent to the execution of the contract for insurance, repairs to or preservation of the motor vehicle, or preservation of the holder's security interest therein, shall not exceed the annual percentage rate disclosed in paragraph 11 of subdivision (a) of Section 2982.

SEC. 9.5. Section 2982.8 of the Civil Code, as amended by Assembly Bill No. 3393 of the 1979-80 Regular Session, is amended to read:

2982.8. (a) If a buyer is obligated under the terms of the conditional sale contract to maintain insurance on the vehicle and subsequent to the execution of the contract the buyer either fails to maintain or requests the holder to procure such insurance, any amounts advanced by the holder to procure such insurance may be the subject of finance charges from the date of advance as provided in subdivision (d). Such amounts shall be secured as provided in the contract and permitted by Section 2984.2 if the holder notifies the buyer in writing of his or her option to repay such amounts in any one of the following ways:

(1) Full payment within 10 days from the date of giving or mailing the notice.

(2) Full amortization during the term of the insurance.

(3) Full amortization after the term of the conditional sale contract to be payable in installments which do not exceed the average payment allocable to a monthly period under the contract. The option offered under this subparagraph shall not apply to any industrial loan company licensed pursuant to Division 7 (commencing with Section 18000) of the Financial Code.

(4) If offered by the holder, any other amortization plan.

If the buyer neither pays in full the amounts advanced nor notifies the holder in writing of his or her choice regarding amortization options before the expiration of 10 days from the date of giving or mailing the notice by the holder, the holder may amortize the amounts advanced on a secured basis pursuant to either paragraph (2) or (3).

(b) The written notification described in subdivision (a) shall also set forth the amounts advanced by the holder and, with respect to each amortization plan the amount of the additional finance charge, the sum of the amounts advanced and the additional finance charge, the number of installments required, the amount of each installment and the date for payment of the installments.

(c) If subsequent to the execution of the contract the holder advances amounts for repairs to or preservation of the motor vehicle or preservation of the holder's security interest therein and such advances are occasioned by the buyer's default under the contract, such advances may be the subject of finance charges from the date of advance as provided in subdivision (d) and shall be secured as provided in the contract and permitted by Section 2984.2.

(d) The maximum rate of finance charge which may be imposed on amounts advanced by the holder subsequent to the execution of the contract for insurance, repairs to or preservation of the motor vehicle, or preservation of the holder's security interest therein, shall not exceed the annual percentage rate disclosed pursuant to paragraph 11 of subdivision (a) of Section 2982.

SEC. 10. Section 2983.8 of the Civil Code is amended to read:

2983.8. Notwithstanding Section 2983.2 or any other provision of law, no deficiency judgment shall lie in any event after any sale of any mobilehome for which a permit is required pursuant to Section 35780 or 35790 of the Vehicle Code for failure of the purchaser to complete his conditional sale contract given to the seller to secure payment of the balance of the purchase price of such mobilehome. The provisions of this section shall not apply in the event there is substantial damage to the mobilehome other than wear and tear from normal usage. This section shall apply only to contracts entered into on or after the effective date of this section and before July 1, 1981.

SEC. 11. Section 2984.2 of the Civil Code is amended to read:

2984.2. No agreement in connection with a conditional sale of a motor vehicle for the inclusion of title to or a lien upon any personal or real property, other than the motor vehicle which is the subject matter of the conditional sale, or accessories therefor or special and auxiliary equipment used in connection therewith, or in substitution, in whole or in part, for any therefor, as security for payment of the contract balance, shall be enforceable. No agreement between a buyer and seller in connection with a sale of a motor vehicle which provides for the inclusion of title to or a lien upon any personal or real property, other than the motor vehicle which is the subject matter of the sale, or accessories therefor or special and auxiliary equipment used in connection therewith, as security for payment of the contract balance, shall be enforceable. This section shall not apply to: (1) any agreement which meets the requirements of Section 2982.5 and otherwise complies with this chapter; or, (2) any agreement relating to any insurance policies upon the motor vehicle which are required by the seller, or to proceeds from such policies, or to return of insurance premiums on any such policies which are financed by the seller; or, (3) with respect to a mobilehome sold prior to July 1, 1981, any agreement whereby a security interest is taken in the real property on which the mobilehome is installed on a foundation system pursuant to Section 18551 of the Health and Safety Code.

SEC. 11.5. Section 2984.2 of the Civil Code, as repealed and added by Assembly Bill No. 3393 of the 1979-80 Regular Session, is amended to read:

2984.2. (a) No conditional sale contract, and no agreement between a seller and a buyer made in connection with a conditional sale contract, may provide for the inclusion of title to or a lien upon any property other than:

(1) The motor vehicle which is the subject matter of the sale, or accessories, accessions, replacements or proceeds thereof;

(2) The proceeds of any insurance policies covering the motor vehicle which are required by the seller or the returned premiums of any such policies if the premiums for such policies are included in the unpaid balance;

(3) The proceeds of any credit insurance policies which the buyer purchases in connection with the motor vehicle conditional sale contract or the returned premiums of any such policies if the premiums for such policies are included in the unpaid balance; or

(4) The proceeds and returned price of any service contract if the cost of such contract is included in the unpaid balance.

(b) Subdivision (a) shall not apply to any agreement which meets the requirements of subdivision (b) of Section 2982.5 and otherwise complies with this chapter, nor shall subdivision (a) apply with respect to a mobilehome sold prior to July 1, 1981, to any agreement whereby a security interest is taken in real property on which such mobilehome is installed on a foundation system pursuant to Section 18551 of the Health and Safety Code.

(c) A provision in violation of this section shall be void.

SEC. 12. Section 2984.3 of the Civil Code is amended to read:

2984.3. Any acknowledgment by the buyer of delivery of a copy of a conditional sale contract or purchase order and any vehicle purchase proposal and any credit statement which the seller has required or requested the buyer to sign, and which he has signed, during the contract negotiations, shall be printed or written in size equal to at least 10-point bold type and, if contained in the contract, shall appear directly above the space reserved for the buyer's signature. The buyer's written acknowledgment, conforming to the requirements of this section, of delivery of a completely filled-in copy of the contract, and a copy of such other documents shall be a rebuttable presumption of delivery in any action or proceeding by or against a third party without knowledge to the contrary when he acquired his interest in the contract. If such third party furnishes the buyer a copy of such documents, or a notice containing items 1 to 9, inclusive, of subdivision (a) of Section 2982, and stating that the buyer shall notify such third party in writing within 30 days if a copy of such documents was not furnished, and no such notification is given, it shall be conclusively presumed in favor of such a third party that copies of such documents were furnished as required by this chapter.

SEC. 13. Section 9302 of the Commercial Code, as amended by Section 1 of Chapter 692 of the Statutes of 1980, 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, or provisions of the Health and Safety Code which require registration of a mobilehome or commercial coach; 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. 14. Section 18004.1 is added to the Health and Safety Code, to read:

18004.1. "Dealer" means a person not otherwise expressly excluded by Section 18004.3 who is engaged in any of the following activities:

(a) For commission, money, or other thing of value, sells, exchanges, buys, offers for sale, or negotiates or attempts to negotiate a sale or exchange of an interest in a mobilehome or commercial coach, or induces or attempts to induce any person to buy or exchange an interest in a mobilehome or commercial coach, and who receives or expects to receive a commission, money, brokerage fees, profit, or any other thing of value from either the seller or purchaser of said mobilehome or commercial coach.

(b) Is engaged wholly or in part in the business of selling mobilehomes or commercial coaches or buying or taking in trade mobilehomes or commercial coaches for the purpose of reselling, selling, or offering for sale, or consigning to be sold, or otherwise dealing in mobilehomes or commercial coaches, whether or not such mobilehomes or commercial coaches are owned by such person.

SEC. 15. Section 18004.3 is added to the Health and Safety Code, to read:

18004.3. "Dealer" does not include any of the following:

(a) Insurance companies, banks, savings and loan associations, finance companies, public officials, or any other person coming into possession of mobilehomes or commercial coaches in the regular course of business, who sell such mobilehomes or commercial coaches under a contractual right or obligation, in performance of an official duty, or under the authority of any court of law. However, such sale shall be for the purpose of preventing the seller from suffering a loss or pursuant to the authority of a court of competent jurisdiction.

(b) Persons who sell or distribute mobilehomes or commercial coaches, subject to registration or titling pursuant to Chapter 4.7 (commencing with Section 18075), for a manufacturer to dealers licensed under this part, or who are employed by manufacturers or distributors to promote the sale of mobilehomes or commercial coaches dealt in by such manufacturers or distributors. However, if any such person also sells mobilehomes or commercial coaches at retail, such person shall be deemed to be a dealer and shall be subject to this part.

(c) Persons regularly employed as salesmen by dealers licensed under this part while acting within the scope of such employment.

(d) Persons exclusively engaged in the bona fide business of exporting mobilehomes or commercial coaches, or of soliciting orders for the sale and delivery of mobilehomes or commercial coaches outside the territorial limits of the United States in instances where 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 mobilehomes or commercial coaches but who are engaged in the business of soliciting orders for the sale and delivery of mobilehomes or commercial coaches outside the territorial limits of the United States shall be exempt from licensure as dealers only if their sales of such mobilehomes or commercial coaches produce less than 10 percent of their total gross revenue from all business transacted.

(e) Persons not engaged in the purchase or sale of mobilehomes or commercial coaches as a business or persons disposing of mobilehomes or commercial coaches 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 part.

(f) Persons licensed as real estate brokers who buy, sell, list, or negotiate the purchase, sale or exchange of mobilehomes pursuant to Section 10131.6 of the Business and Professions Code.

SEC. 16. Section 18005.7 is added to the Health and Safety Code, to read:

18005.7. "Junior lienholder" means a person, other than a legal owner, having a security interest in a mobilehome or commercial coach perfected pursuant to the provisions of Section 18077.2.

SEC. 17. Section 18007 is added to the Health and Safety Code, to read:

18007. "Legal owner" means a person holding a primary security interest in a mobilehome or commercial coach, as evidenced by a certificate of title issued pursuant to the provisions of this part. Where there is no separate security interest, the registered owner shall also be the legal owner.

SEC. 18. Section 18007.5 is added to the Health and Safety Code, to read:

18007.5. "Manufactured home" means a mobilehome.

SEC. 19. Section 18010.2 is added to the Health and Safety Code, to read:

18010.2. "Registered owner" means a person registered by the department as the owner of a mobilehome or commercial coach, subject to the security interest of a legal owner as defined by Section 18007.

SEC. 20. Section 18011.3 is added to the Health and Safety Code, to read:

18011.3. "Retailer" means a dealer.

SEC. 21. Section 18012 of the Health and Safety Code is amended to read:

18012. "Commercial coach" means a structure transportable in one or more sections, designed and equipped for human occupancy for industrial, professional or commercial purposes, which is required to be moved under permit, and shall include a trailer coach.

SEC. 22. Section 18012.5 is added to the Health and Safety Code, to read:

18012.5. "Special purpose commercial coach" means a vehicle with or without motive power, designed and equipped for human occupancy for industrial, professional, or commercial purposes,

which is not required to be moved under permit, and shall include a trailer coach.

SEC. 23. Section 18060.2 of the Health and Safety Code is amended to read:

18060.2. There is hereby established in the State Treasury the Mobilehome Revolving Fund. Money transferred to, or deposited in, the fund is continuously appropriated to the department for expenditure in carrying out the provisions of this part. All fees or other moneys accruing to the department pursuant to this part shall, except as otherwise expressly provided by law, be deposited in the fund.

SEC. 24. Section 18065 is added to the Health and Safety Code, to read:

18065. (a) Every new or used mobilehome dealer, upon the buyer's signing of a purchase order, conditional sales contract, or security agreement for a new or used mobilehome subject to registration under this part, shall establish with an escrow agent an escrow account into which shall be deposited any cash or cash equivalent received from the buyer at any time prior to delivery as whole or partial payment for the mobilehome.

(b) No deposits shall be disbursed from the escrow account until one of the following conditions are met:

(1) The buyer receives delivery of the mobilehome on the site and the mobilehome has passed inspection pursuant to Section 18613.

(2) The mobilehome has been delivered to the location specified in the escrow instructions and the installation is to be performed by the purchaser.

The public agency performing inspection of the mobilehome installation shall give a copy of the statement of installation acceptance to the buyer. If a portion of the amount in the escrow account is for accessories to the mobilehome to be installed in conjunction with the sale, those portions of the amount shall not be released until the accessories are actually installed. If no inspection is required under Section 18613, deposits may be disbursed from the escrow account upon delivery of the mobilehome to the buyer.

(c) The escrow shall terminate and a full refund shall be made to the buyer 120 days from the date of the sales contract unless delivery is made within this period. However, the parties may by mutual consent extend the time in writing for 30-day periods with notice to the escrow agent.

(d) Whenever a mobilehome is accepted as whole or partial payment for a mobilehome, the transfer of title to the mobilehome, accepted as whole or partial payment, shall be part of the escrow if an escrow is established, and the mobilehome accepted for whole or partial payment shall be cleared of all liens prior to or at the time of the disbursement of any deposit to the dealer.

(e) Except for those persons or corporations described in subdivision (a) or (c) of Section 17006 of the Financial Code, the department shall adopt and amend as necessary rules and regulations for the establishment and maintenance of the escrow accounts with

escrow agents or escrow companies licensed and regulated by the State of California.

(f) No mobilehome dealer shall establish with an escrow agent an escrow account in an escrow company in which the mobilehome dealer has more than a 5 percent ownership interest.

(g) Prior to the close of escrow, the escrow shall be furnished with all of the following:

(1) The names and addresses of the registered owner of, the legal owner of, and lienholders on the mobilehome, as set forth in the certificate of ownership or certificate of title and the registration records of the department.

(2) Either the executed and acknowledged release of all rights, title, or interest in the mobilehome held by the registered owner, the legal owner, or lienholders or, in the event the assumption by a new registered owner or the underlying indebtedness secured by such mobilehome, properly executed documentation of such assumption, as applicable. Releases shall be conditional upon the receipt of payment from the escrow account of the amounts set forth in the releases as necessary to terminate the interest in the mobilehome and assumption documentation shall be as prescribed by the person or persons retaining a security interest.

(h) The escrow instructions may provide for the proration of any local property tax due or to become due on the mobilehome, and if any such tax, or the license fee imposed pursuant to Section 18078.3, or the registration fee imposed pursuant to Section 18078.1, is delinquent, the instructions may provide for the payment of such taxes or fees, or both, and any applicable penalties.

(i) This section creates a civil cause of action against any person who violates the provisions of this section. The prevailing party in such action shall be awarded actual damages plus an amount not in excess of two thousand dollars (\$2,000). In addition, reasonable attorney's fees and court costs shall also be awarded to the prevailing party.

(j) No agreement shall contain any provision by which the buyer waives his rights under this section, and any such waiver shall be deemed contrary to public policy and shall be void and unenforceable.

**SEC. 25.** Section 18065 is added to the Health and Safety Code, to read:

**18065.** (a) Every new or used mobilehome dealer, upon the buyer's signing of a purchase order, conditional sales contract, or security agreement for a new or used mobilehome subject to registration under this part, shall establish with an escrow agent an escrow account into which shall be deposited any cash or cash equivalent received from the buyer at any time prior to delivery as whole or partial payment for the mobilehome or accessory thereto.

(b) No deposits shall be disbursed from the escrow account until one of the following conditions are met:

(1) The buyer receives delivery of the mobilehome on the site and the mobilehome has passed inspection pursuant to Section 18613.

(2) The mobilehome has been delivered to the location specified in the escrow instructions and the installation is to be performed by the purchaser.

The public agency performing inspection of the mobilehome installation shall give a copy of the statement of installation acceptance to the buyer. If a portion of the amount in the escrow account is for accessories to the mobilehome to be installed in conjunction with the sale, that portion of the amount shall not be released until such accessories to the mobilehome are actually installed. If no inspection is required under Section 18613, deposits may be disbursed from the escrow account upon delivery of the mobilehome to the buyer.

(c) The escrow shall terminate and a full refund shall be made to the buyer 120 days from the date of the sales contract unless delivery is made within this period. However, the parties may by mutual consent extend the time in writing for 30-day periods with notice to the escrow agent.

(d) Whenever a mobilehome is accepted as whole or partial payment for a mobilehome, the transfer of title to the mobilehome, accepted as whole or partial payment, shall be part of the escrow if an escrow is established, and the mobilehome accepted for whole or partial payment shall be cleared of all liens prior to or at the time of the disbursement of any deposit to the dealer.

(e) Except for those persons or corporations described in subdivision (a) or (c) of Section 17006 of the Financial Code, the department shall adopt and amend as necessary rules and regulations for the establishment and maintenance of the escrow accounts with escrow agents or escrow companies licensed and regulated by the State of California.

(f) No mobilehome dealer shall establish with an escrow agent an escrow account in an escrow company in which the mobilehome dealer has more than a 5-percent ownership interest.

(g) Prior to the close of escrow, the escrow shall be furnished with all of the following:

(1) The names and addresses of the registered owner of, the legal owner of, and lienholders on the mobilehome, as set forth in the certificate of ownership or certificate of title and the registration records of the department.

(2) Either the executed and acknowledged release of all rights, title, or interest in the mobilehome held by the registered owner, the legal owner, or lienholders or, in the event the assumption by a new registered owner of the underlying indebtedness secured by such mobilehome, properly executed documentation of such assumption, as applicable. Releases shall be conditional upon the receipt of payment from the escrow account of the amounts set forth in the releases as is necessary to terminate the interest in the mobilehome and assumption documentation shall be as prescribed by the person or persons retaining a security interest.

(h) The escrow instructions may provide for the proration of any local property tax due or to become due on the mobilehome, and if any such tax, or the license fee imposed pursuant to Section 18078.3,

or the registration fee imposed pursuant to Section 18078.1, is delinquent, the instructions may provide for the payment of such taxes or fees, or both, and any applicable penalties.

(i) This section creates a civil cause of action against any person who violates the provisions of this section. The prevailing party in such action shall be awarded actual damages plus an amount not in excess of two thousand dollars (\$2,000). In addition, reasonable attorney's fees and court costs shall also be awarded to the prevailing party.

(j) No agreement shall contain any provision by which the buyer waives his rights under this section, and any such waiver shall be deemed contrary to public policy and shall be void and unenforceable.

SEC. 26. Section 18066 is added to the Health and Safety Code, to read:

18066. (a) Any payment made by a buyer of a mobilehome to a seller, pending execution of a conditional sale contract, shall be refunded to the buyer in the event the conditional sale contract is not executed.

(b) In the event of breach by the seller of a conditional sale contract or purchase order, where the buyer leaves the mobilehome with the seller as downpayment and such mobilehome is not returned by the seller to the buyer for whatever reason, the buyer may recover from the seller either the fair market value as of the date of the contract of the mobilehome left as a downpayment or its value as stated in the contract or purchase order, whichever is greater. The recovery shall be tendered to the buyer within five business days after the breach.

(c) The remedies of the buyer provided for in subdivision (b) are nonexclusive and cumulative and shall not preclude the buyer from pursuing any other remedy which he or she may have under any other provision of law.

SEC. 27. Section 18066.1 is added to the Health and Safety Code, to read:

18066.1. In the event a buyer of a mobilehome obligates himself or herself to purchase, or receive possession of, a mobilehome pursuant to a contract or purchase order, and the seller knows that the buyer intends to obtain financing from a third party without the assistance of the seller, and the buyer is unable to obtain such financing within 30 days of the execution of the contract or purchase order, the contract or purchase order shall be deemed rescinded and all consideration thereupon shall be returned by the respective parties without demand.

SEC. 28. Section 18066.2 is added to the Health and Safety Code, to read:

18066.2. (a) No conditional sale contract for the purchase of a mobilehome shall be enforceable, except by a bona fide purchaser, assignee, or pledgee for value or unless the violation is corrected as provided in subdivision (b), if the disclosure requirements of "Regulation Z" have not been met.

As used in this subdivision, "Regulation Z" means any rule, regulation, or interpretation promulgated by the Board of Governors of the Federal Reserve System ("Board") under the federal Truth in Lending Act, as amended (15 U.S.C. 1601, et seq.), and any interpretation or approval issued by an official or employee of the Federal Reserve System duly authorized by the board under the Truth in Lending Act, as amended, to issue such interpretations or approvals.

(b) Any disclosure violation may be corrected by the holder, however, a willful violation may not be corrected unless it is a violation appearing on the face of the contract and is corrected within 30 days of the execution of the contract or within 20 days of its sale, assignment, or pledge, whichever is later, as long as the 20-day period commences with the initial sale, assignment, or pledge of the contract, and as long as any other violation appearing on the face of the contract may be corrected only within such time periods. A correction which will increase the amount of the contract balance or the amount of any installment as such amounts appear on the conditional sale contract is not effective unless the buyer concurs in writing to the correction. If notified in writing by the buyer of such a violation, the correction shall be made within 10 days of notice. The correction shall be made by mailing or delivering a corrected copy of the contract to the buyer. Any amount improperly collected by the holder from the buyer shall be credited against the indebtedness evidenced by the contract or returned to the buyer. A violation corrected as provided in this section shall not be the basis of any recovery by the buyer or affect the enforceability of the contract by the holder and shall not be deemed to be a substantive change in the agreement of the parties.

(c) If the violation is not corrected, the buyer may recover from the seller the total amount paid, pursuant to the terms of the contract, by the buyer to the seller or his or her assignee. The amount recoverable for property traded in as all or part of the downpayment shall be equal to the agreed cash value of such property as the value appears on the conditional sale contract or the fair market value of such property as of the time the contract is made, whichever is greater.

SEC. 29. Section 18066.3 is added to the Health and Safety Code, to read:

18066.3. (a) If a holder acquires a conditional sale contract without actual knowledge of the violation by the seller as set forth in Section 18066.2, the contract shall be valid and enforceable by such holder except the buyer is excused from payment of the unpaid finance charge.

(b) If a holder acquires a conditional sale contract with knowledge of such a violation, the conditional sale contract shall not be enforceable except by a bona fide purchaser, assignee, or pledgee for value, or unless the violation is corrected as provided in subdivision (b) of Section 18066.2, and if the violation is not corrected, the buyer may recover from the person to whom payment was made the amounts specified in subdivision (c) of Section 18066.2.

(c) When a conditional sale contract is not enforceable pursuant to this section or Section 18066.2, the buyer of a mobilehome may elect to retain the mobilehome and continue the contract in force or may, with reasonable diligence, elect to rescind the contract and return the mobilehome. The value of the mobilehome so returned shall be credited as restitution by the buyer without any decrease, resulting from the passage of time, in the cash price of the mobilehome as such price appears on the conditional sales contract.

SEC. 30. Section 18066.4 is added to the Health and Safety Code, to read:

18066.4. (a) Notwithstanding any provision to the contrary in any contract for the sale or encumbrance of a mobilehome or commercial coach, at least 15 days' written notice of intent to dispose of a repossessed or surrendered mobilehome or commercial coach shall be given to all persons liable on the contract. The notice shall be personally served or shall be sent by certified mail, return receipt requested, or first-class mail, postage prepaid, directed to the last known address of the persons liable on the contract. The notice shall contain all of the following:

(1) Statements that such persons shall have a right to redeem the mobilehome or commercial coach by paying in full the indebtedness evidenced by the contract until the expiration of 15 days from the date of giving or mailing the notice, and an itemization of the contract balance and of any delinquency, collection, or repossession costs and fees, and the computation or estimate of the amount of any credit for unearned finance charges or cancelled insurance as of the date of the notice.

(2) Statements that either there is a conditional right to reinstate the contract until the expiration of 15 days from the date of giving or mailing the notice, and all the conditions precedent thereto, or that there is no right of reinstatement, and a statement of reasons therefor.

(3) Statements that, upon written request, the secured party shall extend for an additional 10 days the redemption period or, if entitled to the conditional right of reinstatement, both the redemption and reinstatement periods. The secured party shall provide the proper form for applying for such extensions with the substance of such form being limited to the extension request, spaces for the requesting party to sign and date the form, and instructions that it must be personally served or sent by certified or registered mail, return receipt requested, to a person or office and address designated by the secured party and received before the expiration of the initial redemption and reinstatement periods.

(4) A disclosure of the place at which the mobilehome or commercial coach will be returned to such persons upon redemption or reinstatement.

(5) A designation of the name and address of the person or office to whom payment shall be made.

(6) Statements of the secured party's intent to dispose of the mobilehome or commercial coach upon the expiration of 15 days from the date of giving or mailing the notice, or if by mail and either

the place of deposit in the mail or the place of address is outside of this state, the period shall be 20 days instead of 15 days, and further, that upon written request to extend the redemption period and any applicable reinstatement period for 10 days, the secured party shall without further notice extend the period accordingly.

(7) Information that upon written request, the secured party shall furnish a written accounting regarding the disposition of the mobilehome or commercial coach as provided for in subdivision (b), and that such request is required to be personally served or sent first-class mail, postage prepaid, or certified mail, return receipt requested, to a person or office and address designated by the secured party.

(b) Unless automatically provided to the purchaser or borrower within 45 days after the disposition of the mobilehome or commercial coach, the secured party shall provide to any person liable on the contract within 45 days after their written request, if such request is made within one year after the disposition, a written accounting regarding the disposition. Such accounting shall itemize all of the following:

(1) The gross proceeds of the disposition.

(2) The reasonable and necessary expenses incurred for retaking, holding, preparing for, and conducting the sale, and to the extent provided for in the agreement and not prohibited by law, reasonable attorney fees and legal expenses incurred by the secured party in retaking the mobilehome or commercial coach from any person not a party to the contract.

(3) The satisfaction of indebtedness secured by any subordinate liens or encumbrances on the mobilehome or commercial coach, if written notification of demand therefor is received before distribution of the proceeds is completed. If requested by the secured party, the holder of a subordinate lien or encumbrance shall furnish reasonable proof of its interest, and unless it does so, the secured party need not comply with its demand.

(c) In all sales which result in a surplus, the secured party shall furnish an accounting as provided in subdivision (b) whether or not requested by the purchaser or borrower. Such surplus shall be returned to the purchaser or borrower within 45 days after the sale is conducted.

(d) No lienholder may repossess a mobilehome or commercial coach without first satisfying all liens on record with the department which have been perfected prior to the lien which is the basis for the repossession, or otherwise obtaining the consent of all such lienholders prior to such repossession.

SEC. 31. Section 18066.5 is added to the Health and Safety Code, to read:

18066.5. (a) In the absence of default in the performance of any of the purchaser's or borrower's obligations under the contract for the sale or encumbrance of a mobilehome or commercial coach, the secured party may not accelerate the maturity of any part or all of the amount due thereunder or repossess the mobilehome or commercial coach.

(b) If after default by the purchaser or borrower, the secured party repossesses or voluntarily accepts surrender of the mobilehome or commercial coach, any person liable on the contract shall have a right to reinstate the contract and the secured party shall not accelerate the maturity of any part or all of the contract prior to expiration of such right to reinstate, unless the secured party reasonably and in good faith makes any of the following determinations:

(1) The purchaser or borrower or any other person liable on the contract, by omission or commission, intentionally provided false or misleading information of material importance on his or her credit application.

(2) The purchaser or borrower or any other person liable on the contract in order to avoid repossession has removed the mobilehome or commercial coach from the site of installation.

(3) The purchaser or borrower or any other person liable on the contract has committed or threatens to commit acts of destruction, or has failed to take care of the mobilehome or commercial coach in a reasonable manner, so that the mobilehome or commercial coach has or may become substantially impaired in value.

(c) Exercise of such right to reinstate the contract shall be limited to once in any 12-month period and twice during the term of the contract.

(d) The provisions of this subdivision shall govern the method by which a contract shall be reinstated with respect to curing events of default which were a ground for repossession or occurred subsequent to repossession.

(1) Where the default is the result of the purchaser's or borrower's failure to make any payment due under the contract, the purchaser or borrower or any other person liable on the contract shall make the defaulted payments and pay any applicable delinquency charges.

(2) Where the default is the result of the purchaser's or borrower's failure to keep and maintain the mobilehome or commercial coach free from all encumbrances and liens, the purchaser or borrower or any other person liable on the contract shall either satisfy all such encumbrances and liens or, in the event the secured party satisfies the encumbrances and liens, the purchaser or borrower or any other person liable on the contract shall reimburse the secured party for all reasonable costs and expenses incurred therefor.

(3) Where the default is the result of the purchaser's or borrower's failure to keep and maintain insurance on the mobilehome or commercial coach, the purchaser or borrower or any other person liable on the contract shall either obtain the insurance, or in the event the secured party has obtained the insurance, the purchaser or borrower or any other person liable on the contract shall reimburse the secured party for premiums paid and all reasonable costs and expenses incurred therefor.

(4) Where the default is the result of the purchaser's or borrower's failure to perform any other obligation under the contract, unless the secured party has made a good faith determination that the default

is so substantial as to be incurable, the purchaser or borrower or any other person liable on the contract shall reimburse the secured party for all reasonable costs and expenses incurred therefor.

(5) Additionally, the purchaser or borrower or any other person liable on the contract shall, in all cases, reimburse the secured party for all reasonable and necessary collection and repossession costs and fees incurred, including attorney's fees and legal expenses expended in retaking and holding the mobilehome or commercial coach.

(e) If the secured party denies the right to reinstatement under subdivision (b) or paragraph (4) of subdivision (d), the secured party shall have the burden of proof that such denial was justified in that it was reasonable and was made in good faith.

SEC. 31.5. Section 18066.6 is added to the Health and Safety Code, to read:

18066.6. No deficiency judgment shall lie in any event, after the sale of any mobilehome subject to registration pursuant to this part, for failure of the purchaser to complete his or her sale contract given to the seller to secure payment of the balance of the purchase price of such mobilehome. The provisions of this section shall not apply in the event there is substantial damage to the mobilehome other than wear and tear from normal usage

SEC. 32. Chapter 4.2 (commencing with Section 18067) is added to Part 2 of Division 13 of the Health and Safety Code, to read:

#### CHAPTER 4.2. MULTIPLE LISTING BETWEEN DEALERS OF MOBILEHOMES OR COMMERCIAL COACHES

18067. With respect to the sale of any mobilehome which has not been previously installed on a foundation system pursuant to Section 18551, a dealer may solicit or obtain listings, engage in the multiple listing with other dealers, or engage in payments to other dealers or groups of dealers, pursuant to cooperative brokering and referral arrangements or agreements on the sale of any mobilehome which has been titled by the department for at least one year.

18068. The department, after notice and hearing under Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code, may suspend or revoke the license issued to a dealer upon determining that the person to whom the license was issued has committed any of the following acts or omissions:

(a) While acting under the authority of Section 18067, entered into an exclusive listing agreement that did not include a specified date upon which the agreement was to terminate.

(b) While acting under the authority of Section 18067, claimed or took any secret or undisclosed amount of compensation, commission, fee, or profit or failed to divulge to his principal the full amount of such compensation, commission, fee, or profit prior to, or at the time that, a contractual agreement is signed whereby all parties involved, after negotiation, have come to terms. However, this section shall not be construed to require the disclosure of any exclusive, financial

arrangements agreed upon between the dealer and any financial institution with regard to financial arrangements applicable solely to them.

(c) While acting under the authority of Section 18067, used any provision permitting an option to purchase, which is contained in an agreement authorizing or employing such dealer to sell, buy, or exchange mobilehomes or commercial coaches for compensation or commission, except when such dealer, prior to or coincident with the election to exercise such option to purchase, has revealed in writing to the employer the full amount of the dealer's profit and obtained the written consent of the employer approving the amount of such profit.

(d) While acting under the authority of Section 18067, failed to disclose any liens or encumbrances, of which the dealer had knowledge, on a mobilehome or commercial coach.

SEC. 33. Chapter 4.5 (commencing with Section 18070) is added to Part 2 of Division 13 of the Health and Safety Code, to read:

#### CHAPTER 4.5. LICENSES OF DEALERS, DISTRIBUTORS AND MANUFACTURERS

18070. (a) The department, after notice and hearing, may suspend or revoke the license issued to a dealer, transporter, manufacturer, manufacturer branch, distributor, or distributor branch upon determining that the person to whom the license was issued, as provided for by Governor's Reorganization Plan No. 1 of 1980, is not lawfully entitled thereto, or has committed any of the 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) Made, or knowingly or negligently permitted, any illegal use of any special permits issued to or in favor of such license.

(3) Used a false or fictitious name, knowingly made any false statement, or knowingly concealed any material fact, in any application for title of a mobilehome, or otherwise committed a fraud in such application.

(4) Failed to deliver to a transferee lawfully entitled thereto a properly endorsed title.

(5) Knowingly purchased, sold, or otherwise acquired or disposed of a stolen mobilehome.

(6) Failed to provide and maintain a clear physical division between the type of business licensed, as provided for by Governor's Reorganization Plan No. 1 of 1980, and any other type of business conducted at the established place of business.

(7) Willfully violated any law, or any rule or regulation adopted by the commission or the department, relating to mobilehomes and mobilehome sales.

(8) Failed to comply within a reasonable time with any written order of the department.

(9) Violated any of the terms or provisions of Part 5 (commencing with Section 10701) of Division 2 of the Revenue and Taxation Code or rules and regulations adopted pursuant thereto or adopted pursuant to Section 18020 of this code.

(10) Violated any of the rules and regulations adopted pursuant thereto under the authority of Section 18020.

(11) Submitted a check, draft, or money order to the department for any obligation or fee due the department which is thereafter dishonored or refused payment upon presentation.

(12) Caused the state or any person to suffer any loss or damage by reason of any fraud or deceit practiced on them or fraudulent representations made to such person in the sale or purchase of a mobilehome or parts or accessories thereof.

(13) Violated any of the terms and conditions of Chapter 3 (commencing with Section 1797) of Title 1.7 of Part 4 of Division 3 of the Civil Code.

(14) Violated any of the terms or provisions of Section 18065 relating to escrow or any rule, regulation, or order issued by the department pursuant thereto.

(15) Failed to meet the terms and conditions of a compromisal settlement agreement or monetary penalty agreement effected as provided for by Governor's Reorganization Plan No. 1 of 1980.

(16) Moved a mobilehome subject to registration pursuant to this part from a mobilehome park or other site of installation to another location without having obtained from the legal owner, if the legal owner is other than the registered owner, consent for such move as prescribed in Section 18076.14.

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, respectively, 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) A misrepresentation in any manner, whether intentionally false or due to gross negligence, of a material fact.

(B) A promise or representation not made honestly and in good faith.

(C) An intentional failure to disclose a material fact.

(D) Any act falling within the provisions of Section 484 of the Penal Code.

(b) Any of the causes provided for by Governor's Reorganization Plan No. 1 of 1980 as a cause for refusal to issue a license to a transporter, manufacturer, manufacturer branch, distributor, distributor branch, or dealer applicant shall be cause to suspend or revoke a license issued to a transporter, manufacturer, manufacturer branch, distributor, distributor branch, or dealer.

(c) Except as provided for by Governor's Reorganization Plan No. 1 of 1980, 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.

(d) The department, after notice and hearing, may suspend or revoke the license issued to a dealer, transporter, manufacturer, manufacturer branch, distributor, or distributor branch upon determining that the person to whom the license was issued is not lawfully entitled thereto or has violated any of the provisions of this part or of Section 18613 or any rule, regulation, or order issued pursuant thereto.

(e) The department, after notice and hearing, may suspend or revoke the license issued to a mobilehome dealer upon determining that the person to whom the license was issued has committed any of the following acts:

(1) While acting under the authority as provided for by Governor's Reorganization Plan No. 1 of 1980, entered into an exclusive listing agreement that did not include a specified date upon which the agreement was to terminate.

(2) While acting under the authority as provided for by Governor's Reorganization Plan No. 1 of 1980, claimed or took any secret or undisclosed amount of compensation, commission, fee, or profit or fails to divulge to his principal the full amount of such compensation, commission, fee, or profit prior to, or at the time that, a contractual agreement is signed whereby all parties involved, after negotiation, have come to terms. However, this section shall not be construed to require the disclosure of any exclusive financial arrangements agreed upon between the mobilehome dealer and any financial institution with regard to financial arrangements applicable solely to them.

(3) While acting under the authority as provided for by Governor's Reorganization Plan No. 1 of 1980, used any provisions allowing an option to purchase in an agreement authorizing or employing such mobilehome dealer to sell, buy, or exchange mobilehomes for compensation or commission except when such mobilehome dealer, prior to or coincident with the election to exercise such option to purchase, reveals in writing to the employer the full amount of a mobilehome dealer's profit and obtains the written consent of the employer approving the amount of such profit.

SEC. 34. Chapter 4.7 (commencing with Section 18075) is added to Part 2 of Division 13 of the Health and Safety Code, to read:

#### CHAPTER 4.7. REGISTRATION AND TITLING OF MOBILEHOMES AND COMMERCIAL COACHES

##### Article 1. Application and Scope

18075. On and after July 1, 1981, all mobilehomes and commercial coaches shall be subject to the provisions of this code for the purpose

of titling and registration.

(a) The department shall promulgate, adopt, and amend as necessary, regulations to implement, interpret, and make specific the provisions of this chapter.

(b) Departmental regulations shall provide for an orderly and economical transfer of registrations and titles for mobilehomes and commercial coaches previously issued by the Department of Motor Vehicles to those issued by the department. Any registration, title, or decal issued by the Department of Motor Vehicles shall be valid until renewed, replaced, transferred, suspended, or revoked.

(c) The department may establish a schedule of fees to pay the costs of work related to administration and enforcement of this chapter except where such fees are expressly stated herein.

18075.1. Mobilehomes and commercial coaches sold or used within this state shall be subject to annual registration with the department except as follows:

(a) Mobilehomes subject to local property taxation pursuant to Part 13 (commencing with Section 5800) of Division 1 of the Revenue and Taxation Code, and not installed on foundation systems pursuant to Section 18551, shall be subject to registration only at the time of sale, resale, or transfer of title.

(b) Mobilehomes installed or to be installed on foundation systems pursuant to Section 18551 shall be exempt from registration so long as they remain affixed to the foundation system. In the event that the mobilehome is removed from a foundation system for any purpose other than dismantling or reinstallation on a foundation system, it shall be immediately subject to registration with the department.

(c) A nonresident owner of a foreign mobilehome otherwise subject to registration under this code may, subject to exceptions and special provisions contained in this chapter, occupy or permit occupancy of the mobilehome within this state without registering the mobilehome in, or paying any fees to, this state, subject to the conditions that the mobilehome at all times, when occupied in this state, is duly registered in, and displays upon it valid registration issued for the mobilehome in, the place of residence of the owner.

For the purposes of the exceptions and special provisions of this chapter, registration issued by any foreign jurisdiction shall be deemed to be valid for not more than one year from the date of use in this state.

(d) Any nonresident owner of a foreign mobilehome who is a member of the armed forces of the United States on active duty within this state shall be entitled to the exemption granted under subdivision (c) under the conditions set forth therein. Any member of the armed forces, whether a resident or nonresident, shall also be entitled to exemption from registration with respect to a mobilehome owned by such person upon which there is displayed a valid registration issued for such mobilehome in a foreign jurisdiction where such owner was regularly assigned and stationed for duty by

competent military orders at the time such registration was issued. Such competent military orders shall not include military orders for leave, for temporary duty, nor for any other assignment of any nature requiring the owners presence outside the foreign jurisdiction where such owner was regularly assigned and stationed for duty.

(e) Any nonresident owner of a mobilehome of a type subject to registration in this state who, while temporarily living within this state, accepts gainful employment within this state shall be entitled to the exemption granted under subdivision (c), but only until the expiration of the valid home state registration on the mobilehome which was in effect at the time the nonresident accepted gainful employment within this state.

(f) Any nonresident owner of a mobilehome of a type subject to registration under this part who becomes a legal resident of this state shall be entitled to the exemption granted under subdivision (c), but only until the expiration of the valid home state registration on the mobilehome which was in effect at the time the owner became a resident of this state.

(g) Any person who enters California for the purpose of establishing or reestablishing residence or accepting gainful employment following his or her discharge from the armed forces of this country may occupy a mobilehome owned by such person at the time of his or her discharge and registered to him or her in a foreign jurisdiction where his or her military orders required his or her presence without registering the mobilehome in this state until the expiration of the registration period current at the time of his or her discharge and entrance into California.

(h) Any unoccupied mobilehome or commercial coach which is part of an inventory held for sale by a manufacturer or dealer in the course of business.

(i) Any mobilehome being used as an office, as provided for by Governor's Reorganization Plan No. 1 of 1980.

The department may adopt regulations for exempting additional classes of mobilehomes and commercial coaches from registration under a temporary or one-trip permit system which permits the lawful transportation and use of mobilehomes and commercial coaches not otherwise subject to registration.

18075.2. Mobilehomes and commercial coaches owned or leased by the United States, by any foreign government, by a consul or other official representative or any foreign government, by the state, by a political subdivision of the state, or by any city, county, or city and county, or public corporation shall be subject to registration under this code by the person having custody thereof but shall not be subject to the registration fees specified in this code or the Revenue and Taxation Code and such person shall display upon the mobilehome or commercial coach a decal bearing distinguishing marks or symbols, which shall be furnished by the department free of charge.

## Article 2. Registration and Titling

18075.5. Application for the original registration of a mobilehome or commercial coach required to be registered under this part shall be made to the department with registration fees and upon the appropriate form furnished by the department and shall contain all of the following:

(a) The true name and business or residence address of the owner, the legal owner if any, and junior lienholders if any.

(b) The name of the county in which the registered owner resides.

(c) The situs address of the mobilehome or commercial coach, to include the county.

(d) A description of the mobilehome or commercial coach, including all of the following:

(1) The manufacturer's name and identification number.

(2) The date of manufacture.

(3) The serial number or numbers.

(4) The federal label number or numbers affixed pursuant to the National Mobile Home Construction and Safety Standards Act of 1974 (42 USC 5401 et. seq.), or, department insignia number or numbers affixed pursuant to Section 18056.

(5) The date first sold or leased to a purchaser or lessee for purposes other than resale.

(6) Such information as may be reasonably required by the department to enable it to determine whether the mobilehome or commercial coach is lawfully entitled to registration.

18075.6. Ownership registration and title to a mobilehome or commercial coach subject to registration may be held by two or more coowners as follows:

(a) A mobilehome or commercial coach may be registered in the names of two or more persons as joint tenants. Upon the death of a joint tenant the interest of the decedent shall pass to the survivor or survivors. The signature of each joint tenant or survivor or survivors, as the case may be, shall be required to transfer or encumber the title to the mobilehome or commercial coach.

(b) A mobilehome or commercial coach may be registered in the names of two or more persons as tenants in common. Each tenant in common may transfer, but may not encumber, his or her other interest in the title to the mobilehome or commercial coach without the signature of the other tenant or tenants in common.

(c) A mobilehome or commercial coach may be registered as community property in the names of a husband and wife. Except as provided in Section 18076.28 the signature of each spouse shall be required to transfer or encumber the title to the mobilehome or commercial coach.

18075.7. The department shall not accept an application for the original registration of a mobilehome or commercial coach unless the mobilehome or commercial coach at the time of application is within

the state or unless the provisions of Section 18075.8 have been complied with.

18075.8. The department may accept an application for registration of a mobilehome which is not within the state, but which is to be registered to a resident of this state, at the time all documents and fees, as determined by the department in accordance with the provisions of this chapter, are submitted to the department. Any fees submitted pursuant to this section shall not be subject to refund based upon the fact that the mobilehome or commercial coach has not been and is not within this state.

18075.9. In the absence of the regularly required supporting evidence of ownership upon application for registration or transfer of a mobilehome or commercial coach, the department may accept an undertaking or bond which shall be conditioned to protect the department and all officers and employees thereof and any subsequent purchaser of the mobilehome or commercial coach, any person acquiring a lien or security interest thereon, or the successor in interest of such purchaser or person against any loss or damage on account of any defect in or undisclosed claim upon the right, title, and interest of the applicant or other person in and to the mobilehome or commercial coach.

18075.10. Any interested person shall have a right of action to recover on any such bond or undertaking for any breach of the conditions for which the same was deposited, but the aggregate liability of the surety to all such persons shall in no event exceed the amount of the bond. In the event the mobilehome or commercial coach is no longer registered in this state and the currently valid certificate of title is surrendered to the department, the bond or undertaking shall be returned and surrendered at the end of three years or, prior thereto, at the discretion of the department.

18075.11. Whenever any person, after making application for the registration of a mobilehome or commercial coach required to be registered under this part, or after obtaining registration as registered owner, legal owner, or junior lienholder, moves, acquires a new permanent address, or where a person other than the registered owner assigns his or her interest to any other person different from that shown on the certificate of title, the registration card, or the application therefor, such person shall, within 10 days thereafter, notify the department of both the old and new address. No penalty shall arise from failure to notify the department pursuant to this section, nor shall the department or any other person have liability for any notification required by law or regulation other than first-class mailing to the permanent address of record.

18075.12. Any registered owner of a mobilehome or commercial coach, who moves or acquires a new permanent address different from the address shown upon the registration card issued for the mobilehome or commercial coach, shall, within 10 days, mark out the former address shown on the face of the card and with pen and ink write or type the new address on the face of the card immediately

below the former address with the initials of the registered owner.

18075.13. Any registered owner of a commercial coach required to be registered under this part who moves, permits to be moved, or causes to be moved, the commercial coach from the situs location indicated on the registration card shall notify the department within 10 days thereafter of both the old and the new address of situs. The registered owner shall mark out the situs address shown on the card and with pen and ink write or type the new situs address on the registration card and shall initial this change.

18075.14. Any registered owner of a mobilehome required to be registered under this part, who proposes to move, permit to be moved, or cause to be moved, the mobilehome from the situs location indicated on the registration card, shall first obtain written consent of the legal owner, if any, on forms provided by the department. In the event that there is no legal owner of the mobilehome, the registered owner shall complete the written consent form. The original copy of the written consent form shall accompany the mobilehome to its new situs location in lieu of a registration card.

18075.15. Any registered owner, legal owner, or junior lienholder who moves, permits to be moved, or causes to be moved, a mobilehome subject to registration under this part shall apply to the department within 10 days therefrom for an amended registration card upon forms provided by the department and with fees for an amended registration card as prescribed by the department. The application shall contain all of the following:

(a) A copy of the written consent form required by Section 18075.14.

(b) Such information as the department may require relating to the new situs location.

(c) The current registration card requiring amendment.

In the event that the new situs location can not be determined at the time of application, the application shall so indicate and the department shall hold the application in suspense until such information is received. The applicant or the applicant's agent shall, immediately upon determining a new situs address where the mobilehome is to be installed for occupancy, notify the department of the new situs address.

Upon receipt of the completed application the department shall issue an amended registration card for the mobilehome to the registered owner.

18075.16. Upon application for registration of a mobilehome or commercial coach previously registered outside this state, the application shall be certified by the applicant and shall state that the mobilehome or commercial coach previously has been registered outside this state, the time and place of the last registration of such mobilehome or commercial coach outside this state, the name and address of the governmental officer, agency, or authority making the registration, and such further information relative to its previous

registration as may reasonable be required by the department, including the time and place of original registration, if known, and if different from the last foreign registration.

18075.17. An application for registration under this part of a mobilehome or commercial coach previously registered outside of this state shall be accompanied by payment of the amount required to be paid under Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code with respect to the use of the mobilehome or commercial coach by the applicant.

18075.18. The applicant for registration under this part of a mobilehome or commercial coach previously registered outside this state shall surrender to the department all unexpired license plates, seals, certificates, or other evidence of foreign registration as may be in the applicant's possession or under the applicant's control. The department may require a certification from the jurisdiction of last registry when the applicant fails to surrender the last issued unexpired license plates.

18075.19. Upon application made at the time of their surrender to the department and upon payment of a fee of three dollars (\$3), the department shall return the unexpired license plates to the official in charge of the registration of mobilehomes or commercial coaches in the state of issue of the license plates.

18075.20. Upon application for registration of a mobilehome or commercial coach previously registered outside this state, the department shall grant full faith and credit to the currently valid certificate of title describing the mobilehome or commercial coach, the ownership thereof, and any liens thereon, issued by the state in which the vehicle was last registered, except there shall be a notation upon the certificate of title of any and all liens and encumbrances other than those dependent upon possession.

18075.21. In the absence of knowledge by the department that any certificate of title issued by another state is forged, fraudulent, or void, the acceptance thereof by the department shall be a sufficient determination of the genuineness and regularity of the certificate and of the truth of the recitals therein, and no liability shall be incurred by any officer or employee of the department by reason of so accepting a certificate of title.

18075.22. In the event a certificate of title issued by another state shows any lien or encumbrance upon the mobilehome or commercial coach therein described, then the department, upon registering the mobilehome or commercial coach in this state and upon issuing a certificate of title, shall include therein the name of the legal owner and lienholders, if any, unless documents submitted with the foreign certificates of title establish that the lien or encumbrance has been fully satisfied.

18075.23. In the event application is made in this state for registration of a mobilehome or commercial coach and the department is not satisfied as to the ownership of the mobilehome or commercial coach or the existence of foreign liens thereon, then

the department may register the mobilehome or commercial coach and issue a registration card of a distinctive color, but shall withhold issuance of a California certificate of title, unless the applicant shall present documents as to reasonably satisfy the department of the applicant's ownership of the mobilehome or commercial coach and as to any liens thereon or post a bond pursuant to Section 18075.9.

18075.24. In the event the department refuses to grant an application for registration in this state of a mobilehome or commercial coach previously registered in another state, the department shall immediately return to the applicant all documents submitted by the applicant with the application.

18075.25. The department shall forthwith mail a notice of the filing of any application for registration of a mobilehome or commercial coach previously registered outside this state upon written request of the governmental officer, agency, or authority which made the last registration of the mobilehome or commercial coach outside this state. The notice shall contain like data as required on the application filed with the department. This section shall not apply to mobilehomes or commercial coaches last registered in a foreign province or country.

18075.26. Except as otherwise provided in Section 18075.23, the department, upon registering a mobilehome or commercial coach, shall issue a certificate of title to the legal owner and a registration card to the registered owner.

18075.27. The certificate of title issued by the department shall contain all of the following:

(a) Information substantially similar to that required on the registration card as provided in Section 18075.5.

(b) Provision for transfer of the title or interest of a registered owner, legal owner, or junior lienholder, as applicable.

(c) Provision for application for transfer of registration by the transferee.

(d) A statement to the effect that the certificate of title may not reflect all liens recorded with the department against the title and that current title status may be confirmed through the department.

18075.28. The registration card for a mobilehome or commercial coach shall contain all of the following:

(a) The date issued.

(b) The information required by Section 18075.5 in the application for registration.

(c) The registration number assigned to the mobilehome or commercial coach.

(d) The date of expiration, where applicable.

(e) Such other information as the department prescribes by regulation.

The department may modify the form, arrangement, and information appearing on the registration card and may provide for standardization and abbreviations whenever the efficiency of the department will be promoted thereby, except that general delivery

or post office boxes shall not be permitted as the address of the registered owner unless there is no other address.

18075.29. (a) Any person acquiring or releasing an interest in a mobilehome or commercial coach subject to registration under this part shall forward notice of such acquisition or release to the department within 10 calendar days on appropriate forms provided by the department with such fees and additional documentation as may be prescribed by department regulations.

(b) The department, upon receipt of proper notice and fees, shall do all of the following:

(1) Amend the permanent title record of the mobilehome or commercial coach to record or delete the interest of the person, or his or her successor or assignee, as the case may be.

(2) Amend the current registration card to show or delete the interest of the person, or his or her successor or assignee as the case may be, and return the amended registration card to the registered owner by first-class mail.

(3) Provide a copy of the amended registration card to any secured party shown on the amended registration card.

(c) Upon the transfer of the title or interest of the registered owner or legal owner in a mobilehome or commercial coach subject to registration under this part, both the transferor and the transferee of such title or interest shall sign and address the certificate of title for the mobilehome or commercial coach, as appropriate. In the event of a transfer of the title or interest of a registered owner, which involves the assumption by the transferee of the underlying indebtedness secured by such mobilehome or commercial coach, the legal owner shall state on the certificate of title that he or she is to retain his or her legal title and interest. The certificate of title so properly executed shall be delivered to the department with appropriate fees. The department shall appropriately amend the permanent title record of the mobilehome or commercial coach and deliver a new certificate of title to the legal owner by first-class mail, and an amended registration card to the registered owner with copies to any other secured parties shown on the amended registration card.

(d) Whenever the title or interest of the registered owner or legal owner in or to a mobilehome or commercial coach registered under this part passes to another in a manner other than by voluntary transfer, the new registered or legal owner may obtain a transfer of registration upon application therefor and upon presentation of the last certificate of title and current registration card issued for the mobilehome or commercial coach, if available, and any instruments or documents of authority or certified copies thereof as may be required by the department, or required by law, to evidence or effect a transfer of title or interest in such case. The department, when satisfied of the genuineness and regularity of the transfer shall give notice by first-class mail to the registered and legal owner of the mobilehome or commercial coach as shown on the records of the

department, and 15 calendar days after the mailing of such notice, if still satisfied of the genuineness and regularity of such transfer, shall transfer the registration of the mobilehome or commercial coach.

18076. (a) Every registered owner, upon receipt of a registration card, shall maintain the card or a copy thereof with the mobilehome or commercial coach for which it is issued.

(b) The provisions of this section do not apply when a registration card is necessarily removed from the mobilehome for the purpose of application for renewal, amendment, or transfer of registration.

18076.1. (a) When selling a mobilehome or commercial coach, dealers shall use numbered report-of-sale forms issued by the department. The forms shall be used in accordance with the following terms and conditions:

(1) A copy of the report of sale shall be delivered to the purchaser.

(2) All fees and penalties due for registration or transfer of registration of the mobilehome or commercial coach shall be paid to the department within 10 calendar days from the date of sale. Penalties due for noncompliance with this paragraph shall be paid by the dealer. The dealer shall not charge the purchaser for such penalties.

(3) The sale of a mobilehome shall be reported pursuant to Section 18076.2.

(4) An application in proper form to register or transfer registration of the mobilehome or commercial coach shall be submitted to the department. Applications shall be submitted within 10 calendar days from the date of sale.

(b) A mobilehome or commercial coach displaying a copy of the report of sale, may be occupied without registration decals or registration card until the registration decals and registration card are received by the purchaser.

18076.2. In addition to the requirements of Section 18076.1, every dealer upon transferring by sale, lease, or otherwise any mobilehome, shall, not later than the 10th calendar day thereafter, not counting the date of sale, give written notice of the transfer to the assessor of the county where the mobilehome is to be installed. The written notice shall be upon forms provided by the department containing such information as the department may require, after consultation with the assessors.

18076.3. For the purpose of Sections 18076.1 and 18076.2, a "sale" shall be deemed completed and consummated when the purchaser or lessee of a mobilehome or commercial coach has paid the purchase price, or in lieu thereof has signed a purchase contract, lease agreement, or security agreement and has taken physical possession or delivery of the mobilehome or commercial coach.

18076.4. (a) A dealer who violates paragraphs (1), (2), or (3), of subdivision (a) of Section 18076.1 shall pay to the department an administrative service fee of five dollars (\$5) for each violation.

(b) A dealer who violates paragraph (4) of subdivision (a) of

Section 18076.1, when selling a mobile-home or commercial coach, shall pay to the department an administrative service fee as follows:

(1) If the application is submitted after 10 calendar days but within 20 calendar days from the date of sale; ten dollars (\$10).

(2) If the application is submitted after 20 calendar days but within 30 calendar days from the date of sale; twenty dollars (\$20).

(3) If the application is submitted after 30 calendar days from the date of sale; forty dollars (\$40).

(c) Each violation of subdivision (a) of Section 18076.1 shall be, in addition to the obligation to pay the administrative service fee, a separate cause for discipline pursuant to Section 18070.

(d) Nonpayment of an administrative service fee within 10 days after written demand from the department shall be a separate cause for discipline pursuant to Section 18070.

18076.5. If any registration card or registration decal is stolen, lost, mutilated, or illegible, the registered owner of the mobilehome or commercial coach for which the same was issued, as shown by the records of the department, shall immediately make application for and may, upon the applicant furnishing information satisfactory to the department and required fees, obtain a duplicate or a substitute or a new registration under a new registration number, as determined by the department.

18076.6. If any certificate of title is stolen, lost, mutilated, or illegible, the legal owner of the mobilehome or commercial coach for which the same was issued as shown by the records of the department shall immediately make application for, and may, upon payment of required fees and the applicant furnishing information satisfactory to the department, obtain a duplicate certificate of title.

18076.7. The department, the Department of the California Highway Patrol, or any regularly employed and salaried police officer or deputy sheriff may take possession of any certificate, card, permit, or registration decal issued under this part upon expiration, revocation, cancellation, or suspension thereof or which is fictitious or which has been unlawfully or erroneously issued or affixed.

This section shall not be applicable to any insignia issued pursuant to Section 18056 or to any mobilehome label issued pursuant to the National Mobile Home Construction and Safety Standards Act of 1974 (42 U.S.C. 5401 et seq.).

Any such document or decal seized shall be expeditiously delivered to the department with a brief written explanation of the circumstances.

18076.8. Every person who, with intent to defraud, alters, forges, counterfeits, or falsifies any certificate of title, registration card, certificate, registration decal, or permit provided for by this part or any comparable certificate of title, registration card, certificate, decal, insignia, or label, with intent to represent the same as issued by the department or who alters, forges, counterfeits, or falsifies with fraudulent intent any endorsement of transfer on a certificate of title, or who with fraudulent intent displays or causes or permits to be

displayed or have in his or her possession any blank, incomplete, cancelled, suspended, revoked, altered, forged, counterfeit, or false certificate of title, registration card, certificate, registration decal, or permit or who utters, publishes, passes, or attempts to pass, as true and genuine, any of the above-named false, altered, forged, or counterfeited matters knowing the same to be false, altered, forged, or counterfeited with intent to prejudice, damage, or defraud any person, is guilty of a felony and upon conviction thereof shall be punished by imprisonment in the state prison or in the county jail for not more than one year.

18076.9. Any person may request, and the department shall furnish, information regarding the current registration and title status of a mobilehome or commercial coach. The department shall provide forms for such requests, shall establish a standard format for providing such information, and may charge fees to pay the cost of furnishing this information.

Upon receipt of a properly executed request for such information and the payment of prescribed fees the department shall provide such information within five working days by first-class mail to the address indicated on the request. The department may adopt procedures for providing such information by electronic facsimile in addition to mailing such information.

18076.10. Except as otherwise provided in this part, every registration card for a mobilehome or commercial coach subject to annual registration shall expire at midnight on the expiration date indicated on the registration card and shall be renewed prior to such expiration. The department, upon presentation by the registered owner of the registration card or potential registration card last issued and receipt of the proper renewal fees, shall renew the registration of a mobilehome or commercial coach.

18076.11. The transferee of a mobilehome subject to local property taxation shall report the change in ownership information to the assessor in the county where the mobilehome is sited, as provided in Article 2.5 (commencing with Section 480) of Chapter 3 of Part 2 of Division 1 of the Revenue and Taxation Code.

18076.12. (a) For the purposes of registration of mobilehomes pursuant to this chapter, a mobilehome shall include as a single unit with one registration, two or more sections that are manufactured, fabricated, or altered for use as a single mobilehome.

(b) Each transportable section of a commercial coach shall be registered and titled separately.

18076.13. Prior to moving a mobilehome subject to registration pursuant to this part from a mobilehome park or other site of installation to another location, the registered owner shall obtain the consent of the legal owner on a form prescribed by the department.

18076.14. (a) Every mobilehome or commercial coach subject to registration shall be issued a registration decal. The design of such decal shall be determined by the director and the decal shall be issued by the department. Such decal shall be at least 2½ inches high

and 2½ inches wide.

(b) Such decals shall be applied to the outside of the mobilehome or commercial coach in a location within 15 inches of the lower front right-hand side which is clearly visible and such decals shall be maintained in a condition so as to be clearly legible.

(c) The director, after consultation with county tax assessors, shall prescribe a registration decal for mobilehomes subject to registration which clearly indicates, by color or otherwise, whether or not the mobilehome is subject to annual registration with the department or is subject to local property taxation and such decal shall have provisions for indicating the current status of any registration fee or local property tax.

18076.15. (a) The department shall withhold the registration or the transfer of registration of any mobilehome or commercial coach sold at retail to any applicant by any person, other than a mobilehome or commercial coach manufacturer or dealer holding a license and certificate issued as provided for by Governor's Reorganization Plan No. 1 of 1980, until the applicant pays to the department the use tax measured by the sales price of the mobilehome or commercial coach as required by the Sales and Use Tax Law (Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code), together with penalty, if any, unless the State Board of Equalization finds that no use tax is due. If the applicant so desires, he or she may pay the use tax and penalty, if any, to the department so as to secure immediate action upon his or her application for registration or transfer of registration, and thereafter he or she may apply through the department to the State Board of Equalization under the provisions of the Sales and Use Tax Law for a refund of the amount so paid.

(b) The department shall transmit to the State Board of Equalization all collections of use tax and penalty made under this section. This transmittal shall be made at least monthly, accompanied by a schedule, in such form as the department and board may prescribe.

(c) The State Board of Equalization shall reimburse the department for its costs incurred in carrying out the provisions of this section. Such reimbursement shall be effected under agreement between the agencies, approved by the Department of Finance.

(d) In computing any use tax or penalty thereon under the provisions of this section, dollar fractions shall be disregarded in the manner specified in Section 9559 of the Vehicle Code. Payment of tax and penalty on this basis shall be deemed full compliance with the requirements of the Sales and Use Tax Law insofar as the requirements are applicable to the use of mobilehomes or commercial coaches to which this section relates.

18076.16. Used mobilehomes subject to local property taxation are exempt from the payment of use tax upon resale or transfer as provided in Section 6379 of the Revenue and Taxation Code.

18076.17. The department may refuse registration or the renewal

or transfer of registration of a mobilehome or commercial coach in the following instances:

(a) If the department is not satisfied that the applicant is entitled thereto under this part.

(b) If the applicant has failed to furnish the department with information required in the application or reasonable additional information required by the department.

(c) If the department determines that the applicant has made or permitted unlawful use of any registration certificate, certificate of title, or registration decal.

(d) If the department determines that a manufacturer or dealer has failed during the current or previous year to comply with the provisions of this part relating to the giving of notice to the department of the transfer of a mobilehome or commercial coach during the current or previous year.

18076.18. At the time of release of a new mobilehome or commercial coach through a bill of lading or delivery to any person, the manufacturer shall have prepared a certificate of origin, in duplicate, on a form approved by the department which shall contain all of the following:

(a) The name and address of the manufacturer or fabricator.

(b) The manufacturer's identification number.

(c) The trade name of the mobilehome or commercial coach.

(d) The model name or number of the mobilehome or commercial coach.

(e) The shipping weight of the unit or separate sections of the unit in the case of multisection mobilehomes.

(f) The length and width of the unit or separate sections of the unit in the case of multisection mobilehomes.

(g) The serial number of the unit or separate sections of the unit in the case of multiunit mobilehomes.

(h) The date of manufacture.

(i) The U.S. Department of Housing and Urban Development label number or department insignia number affixed to the unit or separate sections of the unit in the case of mobilehomes, as applicable.

(j) The date that the ownership was transferred from the manufacturer or fabricator and to whom the ownership is transferred.

(k) A certification of facts signed by a responsible agent of the manufacturer or fabricator.

(l) Such other information as the department may reasonably require.

The original copy shall accompany the mobilehome and the duplicate copy shall be forwarded to the department within five calendar days from release or delivery by first-class mail.

18076.19. Application for the initial title to a new mobilehome or commercial coach shall be accompanied by the original certificate of origin from the manufacturer and certification that the mobilehome

or commercial coach was new when sold. If the original certificate of origin is not in existence, a duplicate thereof shall be prepared on forms provided by the department and submitted with the application.

18076.20. Certificates of title shall not be required to be renewed annually, but shall remain valid until a new or amended certificate of title is issued upon a transfer of any interest of the registered owner or legal owner shown thereon. The department may suspend, revoke, or cancel any certificate of title valid on its face for any violation of provisions of this chapter relating to certificates of title.

18076.21. No transfer of the title of a mobilehome or commercial coach registered under this code shall be effective until the transferor has made proper endorsement and delivery of the certificate of title and delivery of the registration card to the transferee as provided in this code.

18076.22. When the required certificate of title is lost, stolen, damaged, or mutilated, application for transfer may be made upon a form provided by the department for a duplicate certificate of ownership. The transferor shall sign and address the application, as appropriate, and file the same together with the proper fees for duplicate certificate of ownership and transfer.

18076.23. It is unlawful for any person to fail or neglect properly to endorse, date, and deliver the certificate of title and, when having possession, to fail to deliver the registration card to a transferee who is lawfully entitled to a transfer of registration. Except when the certificate of title is demanded in writing by a purchaser, a mobilehome or commercial coach dealer licensed, as provided for by Governor's Reorganization Plan No. 1 of 1980, shall satisfy the delivery requirement of this section by submitting appropriate documents and fees to the department for transfer of registration in accordance with this part and rules and regulations promulgated thereunder.

18076.24. The transfer fee is delinquent if not paid within 10 days of receipt by the transferee of a properly executed certificate of title for the mobilehome or commercial coach.

18076.25. Whenever any application for a registration transaction is filed with the department during the 60 days immediately preceding the expiration of registration of a mobilehome or commercial coach, the application shall be accompanied by the full renewal fees for the ensuing registration year in addition to any other fees then due and payable.

18076.26. When the transferee of a mobilehome or commercial coach is a dealer who holds the same for resale and moves the same upon the highways under transportation decals, the dealer is not required to make application for transfer, but upon transferring his or her title or interest to another person he or she shall comply with this chapter.

18076.27. Upon the death of a registered or legal owner of a mobilehome or commercial coach registered under this part,

without the decedent leaving other property necessitating probate, unless the mobilehome or commercial coach is by will otherwise bequeathed, and irrespective of the value of the mobilehome or commercial coach, the surviving heir or beneficiary in the order named in Section 630 of the Probate Code may secure a transfer of registration of the title or interest of the decedent upon presenting to the department the appropriate certificate of title and registration card, if available, and a certified statement of the heir or beneficiary setting forth his or her interest in the estate of the decedent, and the names and addresses of any other heirs or beneficiaries, and, if required by the department, a certificate of the death of the decedent together with a statement that there are no creditors of the decedent or, if so, that the creditors of the decedent have been paid in full or their claims have been otherwise discharged.

18076.28. Whenever application is made to the department for a transfer of registration of a mobilehome or commercial coach to a new registered or legal owner and the applicant is unable to present the certificate of title or registration card issued for the mobilehome or commercial coach by reason of the same being lost or otherwise not available, the department may receive the application and examine into the circumstances of the case and may require the filing of certifications or other information, and when the department is satisfied that the applicant is entitled to a transfer of registration the department may transfer the registration of the mobilehome or commercial coach, and issue a new certificate of title and registration card to the person or persons found to be entitled thereto.

18076.29. Whenever application is made to the department for a transfer of registration of a mobilehome or commercial coach to a new registered or legal owner and the applicant is unable to present the registration card issued for the mobilehome or commercial coach by reason of the same being in the possession of the department upon an application for renewal of registration, the department may transfer the registration of such mobilehome or commercial coach upon production of the properly endorsed certificate of title to the mobilehome or commercial coach and a temporary receipt, upon a form prescribed by the department, and containing such information as the department shall deem necessary, including, but not limited to, the registration decal number assigned to the mobilehome or commercial coach, the amount of the fees payable upon renewal of registration, and the serial number of the mobilehome or commercial coach.

18077. A loan of money may be made on the security of a mobilehome or commercial coach subject to registration under this part if either of the following apply:

(a) The proceeds of such loan are applied to all or a part of the purchase price of the mobilehome or commercial coach.

(b) The loan is not for the purchase of the mobilehome or commercial coach, and it is not conditioned upon the performance

of any work done or to be done by the lending party on the mobilehome or commercial coach or the site of installation thereof, nor upon delivery by the lending party of any goods or services thereto.

18077.1. (a) Each person acquiring a security interest in a mobilehome or commercial coach, subject to registration with the department, shall forward to the department a statement of lien on forms provided by the department which shall include a fee prescribed by department regulations, the current registration card for the mobilehome or commercial coach, if previously registered, and such information as the department may prescribe on the form.

(b) The department, upon receipt of such statement of lien, shall amend the permanent title record of the mobilehome or commercial coach to record the secured party, or the secured party's successor or assignee, as the case may be.

(c) The department shall amend the current registration card to show the secured party or the secured party's successor or assignee, and return the amended registration card to the registered owner by first-class mail.

(d) The department shall provide a copy of the amended registration card to the secured party filing the statement of lien, or the secured party's successor or assignee, and to any other secured party indicated on the permanent title record.

18077.2. (a) No security interest, other than that of a registered owner or legal owner in any mobilehome or commercial coach titled under this code, shall be perfected until the statement of lien required by Section 18077.1 has been received by the department at its office in Sacramento or any other office designated by the director.

(b) The department may establish regulations for accepting such statement of lien by electronic facsimile, which shall provide that the lien shall be perfected as of the date of receipt of such electronic facsimile. However, if the department does not receive the statement of lien required by Section 18077.1 within 10 calendar days from the date of receipt of such electronic facsimile, such lien shall not be perfected, until such time as the statement of lien is actually received by the department as provided in subdivision (a).

18077.3. (a) Priority of liens for mobilehomes and commercial coaches shall be determined according to priority in the time of receipt by the department of documentation thereof as provided by this chapter.

(b) The holder of the primary security interest in a mobilehome or commercial coach shall be designated as the legal owner of the mobilehome or commercial coach on all department records.

(c) Holders of junior liens in a mobilehome or commercial coach shall be designated as "junior lienholders" on all department records and shall be ranked in numerical order by the date and time of receipt by the department of documentation required by this chapter.

18077.4. A legal owner or junior lienholder may assign title or interest to a mobilehome or commercial coach subject to registration under this part without the consent of and without affecting the interest of the registered owner or other lien holders.

#### Article 4. Annual Licensing and Taxation

18078. Commencing July 1, 1981, the department shall administer the annual licensing and taxation of all mobilehomes not subject to local property taxation pursuant to Part 13 (commencing with Section 5800) of Division 1 of the Revenue and Taxation Code and not installed on a foundation system pursuant to Section 18551, and all commercial coaches. The department may promulgate rules and regulations for the orderly transfer of such licensing and taxation functions from the Department of Motor Vehicles, and for their administration thereafter.

18078.1. An annual registration fee pursuant to Section 9250 of the Vehicle Code shall be paid the department at the time of registration or renewal for each transportable section of a mobilehome or commercial coach registered pursuant to this part. A registration fee not paid on or before the expiration of the previous registration year is delinquent. A charge of three dollars (\$3) for each transportable section shall be added to delinquent registration fees. No additional charge shall be imposed on a registration fee received by mail after the date of delinquency if such fee was, by evidence of postmark, placed in the mail before midnight on the date of delinquency.

18078.2. When renewal fee penalties have not accrued with respect to a mobilehome or commercial coach subject to this chapter and the mobilehome or commercial coach is transferred, the transferee shall have a period of 20 days from the date of such transfer to pay any registration fees which become due without payment of any penalties that would otherwise be required.

18078.3. Commencing July 1, 1981, the vehicle license fee levied pursuant to Section 10751 of the Revenue and Taxation Code on mobilehomes not subject to local property taxation pursuant to Part 13 (commencing with Section 5800) of Division 1 of the Revenue and Taxation Code, or commercial coaches shall be paid to the department. The annual amount of the fee shall be a sum equal to 2 percent of the market value of the mobilehome or commercial coach. The market value shall be determined by the department upon the basis of the original sales price of the mobilehome or commercial coach when first sold to a consumer as a new mobilehome or commercial coach. In the event any mobilehome or commercial coach subject to this article is modified or added to at a cost of two hundred dollars (\$200), or more, a copy of the building permit required for such modifications pursuant to regulations adopted pursuant to Section 18057 shall be entered in the permanent record of the mobilehome and the department shall classify or

reclassify the mobilehome or commercial coach in its proper class as provided in Section 18078.4. These provisions shall not apply in the event that the modifications are necessary to enable a handicapped person to enter and use such mobilehome or commercial coach.

18078.4. (a) For the purposes of this article, a classification plan is established consisting of the following classes: a class from no dollars (\$0) to and including forty-nine dollars and ninety-nine cents (\$49.99); a class from fifty dollars (\$50) to and including one hundred ninety-nine dollars and ninety-nine cents (\$199.99); and thereafter a series of classes successively set up in brackets having a spread of two hundred dollars (\$200), consisting of such number of classes as will permit classification of all mobilehomes or commercial coaches.

(b) The market value of a mobilehome or commercial coach subject to this article for each registration year of its life, shall be as follows:

For the first year, 85 percent of a sum equal to the middle point between the extremes of its class; for the second year, 70 percent of such sum; for the third year, 55 percent of such sum; for the fourth year, 45 percent of such sum; for the fifth year, 40 percent of such sum; for the sixth year, 35 percent of such sum; for the seventh year, 30 percent of such sum; for the eighth year, 25 percent of such sum; for the ninth year, 24 percent of such sum; for the 10th year, 23 percent of such sum; for the 11th year, 22 percent of such sum; for the 12th year, 21 percent of such sum; for the 13th year, 20 percent of such sum; for the 14th year, 19 percent of such sum; for the 15th year, 18 percent of such sum; for the 16th year, 17 percent of such sum; for the 17th year, 16 percent of such sum; for the 18th year and each succeeding year, 15 percent of such sum.

It is the intent of this section that the market value of any mobilehome or commercial coach subject to this article shall be the same in each registration year of its life as it would be if determined pursuant to Sections 10752.1, 10753, 10753.2, 10753.3, and 10753.4 of the Revenue and Taxation Code.

18078.5. (a) The license fee is due and payable to the department each year on or before the expiration date assigned by the department and noted on the registration card. The fee shall be paid to the department at the time of renewal of registration.

(b) An amount of 20 percent of the license fee shall be added on any application for renewal of registration made later than midnight of the date of expiration. The additional amount shall not be imposed on any application or fee payment received by mail after the date of expiration if such application or payment was, by evidence of postmark, placed in the mail before midnight on the date of expiration. Any mobilehome subject to this article for which registration has been allowed to lapse for 120 days or more, shall be subject to local property taxation pursuant to Section 10759.5 of the Revenue and Taxation Code.

(c) It is the intent of the Legislature that license fees levied on mobilehomes or commercial coaches subject to this article shall not

be altered or increased from the rates and levels of license fees set by the original enactment of this chapter.

18078.6. (a) All mobilehome or commercial coach license fee money collected by the department pursuant to Section 18078.3 shall be reported monthly to the Controller and at the same time deposited in the State Treasury in a special account in the General Fund.

(b) The money in such special account is hereby continuously appropriated to the Controller who shall disburse to the auditor of each county the net amount of money shown by the report made pursuant to Section 18078.7 to have been collected in mobilehome or commercial coach taxes on mobilehomes or commercial coaches having situs within such county.

(c) The money disbursed to the auditor of each county shall be distributed by such person in the same manner and proportions as described in Section 11003.4 of the Revenue and Taxation Code.

18078.7. On or after the first day of January and the first day of July of each year, the department shall report to the auditor of each county the address at which each mobilehome or commercial coach has situs within the county on which license fees under this article have been paid to the department during the six-month period immediately preceding January 1st and July 1st, respectively, and the amount paid on each mobilehome or commercial coach.

At the time the department reports to the county auditors, it shall also report to the Controller the information described in the preceding paragraph, or a summary thereof, for each of the counties.

SEC. 35. 18080.7 is added to the Health and Safety Code, to read:

18080.7. (a) Any person who willfully violates any of the provisions of this part relating to licensing or titling and registration, or any rules or regulations promulgated therefor, is guilty of a misdemeanor, punishable by a fine not exceeding two thousand dollars (\$2,000) or by imprisonment not exceeding 30 days, or by both such fine and imprisonment.

(b) The department, after notice and hearing pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of the Government Code, may suspend or revoke the license issued to a dealer, salesperson, or manufacturer, as provided for by Governor's Reorganization Plan No. 1 of 1980, who willfully or by gross negligence violates any of the provisions of this part, or any rules or regulations promulgated pursuant to this part.

(c) Any person who willfully or by gross negligence violates any provision of this part relating to licensing or titling and registration, or any rules or regulations promulgated therefor, shall be liable for a civil penalty not exceeding two thousand dollars (\$2,000) for each such violation or for each day of a continuing violation. The department shall institute or maintain an action in a court of appropriate jurisdiction to collect any civil penalty arising under this section.

SEC. 36. Section 18210.5 is added to the Health and Safety Code,

to read:

18210.5. "Manufactured home" means a mobilehome.

SEC. 37. Section 18218 of the Health and Safety Code is amended to read:

18218. "Commercial coach" means a structure transportable in one or more sections, designed and equipped for human occupancy for industrial, professional or commercial purposes, which is required to be moved under permit, and shall include a trailer coach.

SEC. 38. Section 18218.5 is added to the Health and Safety Code, to read:

18218.5. "Special purpose commercial coach" means a vehicle with or without motive power, designed and equipped for human occupancy for industrial, professional or commercial purposes, which is not required to be moved under permit, and shall include a trailer coach.

SEC. 39. Section 18550 of the Health and Safety Code is amended to read:

18550. It is unlawful for any person to use or cause, or permit to be used for occupancy, any of the following mobilehomes, wherever such mobilehomes are located:

(a) Any mobilehome supplied with fuel, gas, water, electricity, or sewage connections, unless such connections and installations conform to regulations of the commission.

(b) Any mobilehome which is permanently attached with underpinning or foundation to the ground, except for mobilehomes which bear a department insignia or federal label, and which are installed on a foundation system, pursuant to Section 18551.

(c) Any mobilehome which does not conform to the registration requirements of the department.

(d) Any mobilehome in an unsafe or unsanitary condition.

(e) Any mobilehome which is structurally unsound and does not protect its occupants against the elements.

SEC. 40. Section 18551 of the Health and Safety Code, as amended by Chapter 285 of the Statutes of 1980, is amended to read:

18551. The department shall establish regulations for mobilehome foundation systems which shall be applicable throughout the state. When established, these regulations supersede any ordinance enacted by any city, county, or city and county applicable to mobilehome foundation systems. The department may approve alternate foundations systems to those provided by regulation where the department is satisfied of equivalent performance. The department shall document approval of such alternate systems by its stamp of approval on the plans and specifications for the alternate foundation system.

(a) Prior to installation of a mobilehome on a foundation system, the mobilehome owner or a licensed contractor shall obtain a building permit from the appropriate local agency. To obtain such a permit, the owner or contractor shall provide the following:

(1) Written evidence acceptable to the local agency that the

mobilehome owner owns or holds title to or is purchasing the real property where the mobilehome is to be installed on a foundation system. A lease held by the mobilehome owners, which is transferable, for the exclusive use of the real property where the mobilehome is to be installed, shall be deemed to comply with this paragraph if the lease is for a term of 35 years or more from the date of application for the building permit required by this subdivision and the term of the lease is not revocable at the discretion of the lessor except for cause, as described in subdivisions 2 to 5, inclusive, of Section 1161 of the Code of Civil Procedure.

(2) Written evidence acceptable to the local agency that the registered owner owns the mobilehome free of any liens or encumbrances or, in the event that the legal owner is not the registered owner, or liens and encumbrances exist on the mobilehome, written evidence provided by the legal owner and any lienors or encumbrancers that such legal owner, lienor, or encumbrancer consents to the attachment of the mobilehome upon the discharge of any personal lien, which may be conditioned upon the satisfaction by the registered owner of the obligation secured by the lien.

(3) Plans and specifications required by department regulations or a department-approved alternate for the mobilehome foundation system.

(4) The mobilehome manufacturer's installation instructions, or plans and specifications signed by a California licensed architect or engineer covering the installation of an individual mobilehome in the absence of the mobilehome manufacturer's instructions.

(5) Building permit fees established by ordinance of the city, county, or city and county of the appropriate local agency.

(6) A fee payable to the department in the amount of eleven dollars (\$11) for each transportable section of the mobilehome, which shall be immediately transmitted to the department with a copy of the building permit and such other information concerning the mobilehome as the department may prescribe on forms provided by the department.

On the same day that the certificate of occupancy for the mobilehome is issued by the appropriate local agency, the local agency shall record with the county recorder of the county in which the real property is situated, on which the mobilehome has been installed, a document naming the owner of the real property, describing the real property with certainty, and stating that a mobilehome has been affixed to such real property by installation on a foundation system pursuant to this section.

When recorded, the document referred to above shall be indexed by the county recorder to the named owner and shall be deemed to give constructive notice as to its contents to all persons thereafter dealing with the real property.

If the mobilehome is registered with the department, such local agency shall notify the department that the mobilehome has been

installed on a foundation system.

Fees received by the department pursuant to this subdivision shall be deposited in the Mobilehome Revolving Fund established under Section 18060.2. To the extent these fees are utilized for enforcement of consumer protections, the provisions of Section 18060.3 shall not apply.

(b) The department shall adopt regulations providing for the cancellation of registration of a mobilehome which is permanently attached to the ground on a foundation system pursuant to this section. The regulations shall provide for the surrender to the department of the certificate of title and other indicia of registration. For the purposes of this subdivision, permanent affixation to a foundation system shall be deemed to have occurred on the day a certificate of occupancy is issued to the mobilehome owner and the document referred to in paragraph (6) of subdivision (a) is recorded. Cancellation shall be effective as of such date and the department shall enter such cancellation on its records upon receipt of a copy of the certificate of occupancy. This subdivision shall not be construed to affect the application of existing laws, or the department's regulations or procedures with regard to the cancellation of registration, except as to the requirement therefor and the effective date thereof.

(c) Once installed on a foundation system in compliance with the provisions of subdivisions (a) and (b), a mobilehome shall be deemed a fixture and a real property improvement to the real property to which it is affixed. Physical removal of the mobilehome shall thereafter be prohibited without the consent of all persons or entities who, at the time of such removal, have title to any estate or interest in the real property to which the mobilehome is affixed.

For the purposes of this part:

(1) "Physical removal" shall include, without limitation, the unattaching of the mobilehome from the foundation system, except for temporary purposes of repair or improvement thereto.

(2) Consent to removal shall not be required from the owners of rights-of-way or easements or the owners of subsurface rights or interests in or to minerals, including, but not limited to, oil, gas, or other hydrocarbon substances.

(d) At least 30 days prior to a legal removal of the mobilehome from the foundation system and transportation away from the real property to which it was formerly affixed, the mobilehome owner shall notify the department and the county assessor of the intended removal of the mobilehome. The department shall require written evidence that the necessary consents have been obtained pursuant to this section and shall require application for either a transportation permit or mobilehome registration as the department may decide is appropriate to the circumstances. Immediately upon removal, as defined in this section, the mobilehome shall be deemed to have become personal property and subject to all laws governing the same as applicable to a mobilehome.

(e) Notwithstanding any other provision of law, any mobilehome installed on a foundation system, attached, or otherwise permanently affixed to real property without compliance with the provisions of subdivisions (a) and (b), shall not be deemed a fixture or improvement to such real property. This subdivision shall not be construed to affect the application of sales and use or property taxes.

(f) Once installed on a foundation system, a mobilehome shall be subject to state enforced health and safety standards for mobilehomes, enforced pursuant to Section 18040.

(g) No local agency shall require that any mobilehome currently on private property be placed on a foundation system.

SEC. 41. Section 50405.2 is added to the Health and Safety Code, to read:

50405.2. The Division of Codes and Standards shall be divided into two sections, the Housing Standards Section and the Manufactured Housing Section. Each section shall be in the charge of an assistant chief, under the direction of the chief. The assistant chiefs shall be appointed, upon recommendation by the director, by the Governor. Such assistant chief shall hold office at the pleasure of the director, and shall receive a salary as shall be fixed by the director with the approval of the Department of Finance.

SEC. 42. Section 630 of the Probate Code is amended to read:

630. When a decedent leaves no real property, 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, or mobilehome or commercial coach registered under the provisions of Part 2 (commencing with Section 18000) of Division 13 of the Health and Safety Code, 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. 43. Section 5801 of the Revenue and Taxation Code, as added by Chapter 285 of the Statutes of 1980, is amended to read:

5801. (a) As used in this part, "mobilehome" means a mobilehome as defined in Sections 18008 and 18211 of the Health and Safety Code which:

- (1) Was first sold new on or after July 1, 1980; or,
- (2) Was first sold new on or before June 30, 1980, and with respect to which the license fee required to be paid pursuant to Part 5 (commencing with Section 10701) of Division 2 has been delinquent for 120 days or more.

If a mobilehome consists of two or more transportable sections which have been assembled as a single unit or were manufactured or fabricated for later assembly as a single unit, and each section has been separately registered under the Vehicle Code, the provisions of this part shall apply to all sections of the mobilehome if the license fee for any section has been delinquent for 120 days or more.

(b) "Mobilehome" as used in this part does not include a mobilehome which has become real property by being affixed to land on a permanent foundation system or otherwise and is taxed as all other real property is taxed.

SEC. 44. Section 5812 of the Revenue and Taxation Code, as added by Chapter 285 of the Statutes of 1980, is amended to read:

5812. (a) The base year value of a mobilehome which is purchased or which changed ownership shall be entered on the roll for the lien date next succeeding the date of the purchase or change in ownership. The value of any new construction shall be entered on the roll for the lien date next succeeding the date of completion of the new construction. The value of new construction in progress on the lien date shall be entered on the roll as of the lien date.

(b) The base year value of a mobilehome described in paragraph (2) of subdivision (a) of Section 5801 shall be entered on the roll for the lien date next succeeding: (1) the date on which it is discovered; or (2) if the notice required by Section 5357 of the Vehicle Code has been furnished, the 120th day following the date upon which the fee became delinquent.

SEC. 45. Section 6012.8 of the Revenue and Taxation Code, as amended by Section 7.4 of Chapter 285 of the Statutes of 1980, is amended to read:

6012.8. (a) For the purposes of this part, "gross receipts" from the sale of a new mobilehome, and the "sales price" of a new mobilehome sold or stored, used or otherwise consumed in this state shall be 75 percent of the sales price of the mobilehome to the retailer, if such mobilehome is sold by the retailer to the purchaser for installation on a foundation system pursuant to Section 18551 of the Health and Safety Code for occupancy as a residence, and is

thereafter subject to property taxation. The retailer shall be considered to be the consumer for purposes of this part if the sale by the retailer would otherwise have been subject to sales tax and if the retailer is not also the manufacturer of the mobilehome. If the retailer of the mobilehome is the manufacturer, tax shall be measured by an amount equal to 75 percent of the sales price at which a similar mobilehome ready for installation would be sold by the manufacturer to a retailer-consumer in this state.

Notwithstanding any other provision of this part, a retailer may give a resale certificate for the purchase by the retailer of such a mobilehome and shall report the gross receipts or sales price from such purchase with the return for the period during which the mobilehome is sold to the purchaser for installation for occupancy as a residence.

(b) For purposes of this section, a "mobilehome" is defined in Sections 18008 and 18211 of the Health and Safety Code.

(c) If a purchaser certifies in writing to a retailer that the mobilehome purchased will be consumed in a manner or for a purpose entitling the retailer to exclude 25 percent of the gross receipts or sales price to the retailer from the measure of tax, and uses the property in some other manner or for some other purpose which would not be subject to any other exclusion or exemption under this part, the purchaser shall be liable for payment of tax measured by the amount of the sales price to the purchaser less an amount equal to 75 percent of the gross receipts or sales price of the mobilehome to the retailer.

(d) 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 any used mobilehome, the initial retail sale of which qualified for the partial exemption from tax provided for by this section.

(e) This section shall become operative July 1, 1980.

SEC. 46. Section 6012.9 of the Revenue and Taxation Code, as amended by Chapter 285 of the Statutes of 1980, is amended to read:

6012.9. (a) For the purposes of this part, "gross receipts" from the sale of a new mobilehome, and the "sales price" of a new mobilehome sold or stored, used or otherwise consumed in this state shall be 75 percent of the sales price of the mobilehome to the retailer, if such mobilehome is sold by the retailer to the purchaser for installation for occupancy as a residence pursuant to the requirements of Section 18613 of the Health and Safety Code, and is thereafter subject to property taxation. The retailer shall be considered to be the consumer for purposes of this part if the sale by the retailer would otherwise have been subject to sales tax and if the retailer is not also the manufacturer of the mobilehome. If the retailer of the mobilehome is the manufacturer, tax shall be measured by an amount equal to 75 percent of the sales price at which a similar mobilehome ready for installation would be sold by the manufacturer to a retailer-consumer in this state.

Notwithstanding any other provision of this part, a retailer may give a resale certificate for the purchase by the retailer of such a mobilehome and shall report the gross receipts or sales price from such purchase with the return for the period during which the mobilehome is sold to the purchaser for installation for occupancy as a residence.

(b) For the purpose of this section, a "mobilehome" is defined in Sections 18008 and 18211 of the Health and Safety Code.

(c) If a purchaser certifies in writing to a retailer that the mobilehome purchased will be consumed in a manner or for a purpose entitling the retailer to exclude 25 percent of the gross receipts or sales price to the retailer from the measure of tax, and uses the property in some other manner or for some other purpose which would not be subject to any other exclusion or exemption under this part, the purchaser shall be liable for payment of tax measured by the amount of the sales price to the purchaser less an amount equal to 75 percent of the gross receipts or sales price of the mobilehome to the retailer.

(d) 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 any used mobilehome, the initial retail sale of which qualified for the partial exemption from tax provided for by this section.

SEC. 47. Section 6094.5 of the Revenue and Taxation Code is amended to read:

6094.5. Except as provided in Sections 6012.8 and 6012.9:

(a) Any person who gives a resale certificate for property which he knows at the time of purchase is not to be resold by him in the regular course of business for the purpose of evading payment to the seller of the amount of the tax applicable to the transaction is guilty of a misdemeanor.

(b) Any person who gives a resale certificate for property which he knows at the time of purchase is not to be resold by him in the regular course of business is liable to the state for the amount of tax that would be due if he had not given such resale certificate.

SEC. 48. Section 10751 of the Revenue and Taxation Code is amended to read:

10751. A license fee is hereby imposed for the privilege of operating upon the public highways in this state any vehicle of a type which is subject to registration under the Vehicle Code, or any trailer coach which is required to be moved under permit as authorized in Section 35790 of the Vehicle Code and which is not subject to local property taxation pursuant to Part 13 (commencing with Section 5800) of Division 1. Vehicles of banks, including national banking associations, shall be subject to all provisions of the Vehicle Code to the same extent and same manner as other vehicles, and shall be subject to this part.

SEC. 49. Section 10759.5 of the Revenue and Taxation Code, as amended and renumbered by Chapter 285 of the Statutes of 1980, is

amended to read:

10759.5. (a) Notwithstanding the provisions of Section 10758, on or after July 1, 1980, any mobilehome, with respect to which the license fee required to be paid by this part has been delinquent for a period of 120 days or more, shall no longer be subject to the provisions of this part. Instead, such mobilehome shall be subject to the provisions of law governing local property taxation.

If a mobilehome consists of two or more transportable sections which have been assembled as a single unit or were manufactured or fabricated for later assembly as a single unit, and each section has been separately registered under the Vehicle Code, and the license fee for any section of the mobilehome has been delinquent for 120 days or more, all sections of the mobilehome shall no longer be subject to the provisions of this part and shall become subject to the provisions of law governing local property taxation.

(b) In determining whether the license fee has been delinquent for 120 days or more, the 120-day period shall not include any days during which the mobilehome is the subject of any probate proceedings in this state. The 120-day period shall commence upon sale or distribution of the mobilehome by the executor or administrator. If the license fee was delinquent for 120 days or more prior to the date of death, the mobilehome shall be subject to property taxation.

(c) With regard to any mobilehome subject to local property taxation pursuant to the provisions of subdivision (a), the delinquent taxes and fees due under this part and under Article 2 (commencing with Section 9250) of Chapter 6 of Division 3 of the Vehicle Code as reported by the Department of Motor Vehicles or the Department of Housing and Community Development shall be added to the applicable property tax bill; the delinquent taxes and fees may be added to the secured roll and may be collected and distributed in the same manner as property taxes; or, in the alternative, may be added to the unsecured roll, collected like and distributed like all other taxes on such roll. If the amount of delinquent taxes and penalties does not appear in the records of the Department of Motor Vehicles or the Department of Housing and Community Development, the Department of Housing and Community Development shall determine from available information, if any, what the delinquent taxes and fees would have been had the mobilehome been registered. If the amount of delinquent fees cannot be determined by the Department of Housing and Community Development, there shall be added a penalty for failure to register in the amount of one hundred dollars (\$100); or, 1 percent of the current value of the mobilehome for each year or part thereof the mobilehome has been in this state without a current registration, not to exceed four years.

Whenever there is a transfer of registration, the liability for delinquent fees and penalties is that of the seller and not the buyer of the mobilehome.

(d) The State Board of Equalization shall adopt and amend as

necessary rules and regulations to carry out as well as enforce the provisions of this section.

(e) For purposes of this section, "mobilehome" is defined in Section 396 of the Vehicle Code.

(f) If any mobilehome owner disputes the amount of delinquent taxes and fees reported by the Department of Motor Vehicles, the owner shall pay the amount reported to the county tax collector. If the Department of Motor Vehicles determines that a refund is due, it shall notify the auditor who shall refund the overpayment or erroneous payment of fees and taxes to the owner.

SEC. 50. Section 11914 of the Revenue and Taxation Code, as amended by Chapter 285 of the Statutes of 1980, is repealed.

SEC. 51. Section 396 of the Vehicle Code is amended to read:

396. "Mobilehome" is a structure, as defined in Section 18008 of the Health and Safety Code. As used in this code, a mobilehome is a trailer coach which is in excess of eight feet in width or in excess of 40 feet in length and is subject to the registration requirements of this code.

SEC. 52. Section 5901 of the Vehicle Code, as amended by Chapter 285 of the Statutes of 1980, is amended to read:

5901. (a) Every dealer or lessor-retailer, upon transferring by sale, lease or otherwise any vehicle, whether new or used, of a type subject to registration under this code, shall, not later than the end of the fifth calendar day thereafter, not counting the day of sale, give written notice of the transfer to the department at its headquarters upon an appropriate form provided by it, and with respect to mobilehomes shall send a copy of the notice to the assessor of the county where the mobilehome is to be installed, along with a copy of the manufacturer's label required by Section 18064 of the Health and Safety Code for that mobilehome or a copy of the sales invoice or other document showing the make and model of the mobilehome, the accessories included, and any added construction features or materials in such form as prescribed by the Department of Housing and Community Development after consultation with the assessors. Filing of a copy of the notice and label, invoice, or other document with the assessor in accordance with this section shall be in lieu of filing a change in ownership statement pursuant to Sections 480 and 482 of the Revenue and Taxation Code.

(b) Except as otherwise provided in this subdivision or in subdivision (c), in the case of a vehicle under 6,001 pounds, manufacturer's maximum gross vehicle weight rating, the dealer or lessor-retailer shall indicate on the form the actual mileage of the vehicle as indicated by the vehicle's odometer at the time of the transfer. However, if the vehicle dealer or lessor-retailer has knowledge that the mileage displayed on the odometer is incorrect, such licensee shall indicate on the form the true mileage, if known, of the vehicle at the time of the transfer. A vehicle dealer or lessor-retailer need not give the notice when selling or transferring a new unregistered vehicle to a dealer or lessor-retailer.

(c) When the dealer or lessor-retailer is not in possession of the vehicle that is sold or transferred, the person in physical possession of such vehicle shall give the information required by subdivision (b).

(d) A "sale" shall be deemed completed and consummated when the purchaser of that vehicle has paid the purchase price, or, in lieu thereof, has signed a purchase contract or security agreement, and taken physical possession or delivery of that vehicle.

SEC. 53. Chapter 6 (commencing with Section 11950) of Division 5 of the Vehicle Code is repealed.

SEC. 25. It is the intent of the Legislature, if this bill and Senate Bill 1595 are both chaptered and become effective January 1, 1981, both bills amend Section 10131.7 of the Business and Professions Code, and this bill is chaptered after Senate Bill 1595, that the amendments to Section 10131.7 of the Business and Professions Code proposed by both bills be given effect and incorporated in Section 10131.7 of the Business and Professions Code 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 1595 are both chaptered and become effective January 1, 1981, both amend Section 10131.7 of the Business and Professions Code, and this bill is chaptered after Senate Bill 1595, in which case Section 2 of this act shall not become operative.

SEC. 54. It is the intent of the Legislature, if this bill and Assembly Bill 3393 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 2981 of the Civil Code, and this bill is chaptered after Assembly Bill 3393, that Section 2981 of the Civil Code, as amended by Section 19 of Assembly Bill 3393, be further amended on the effective date of this act in the form set forth in Section 7.5 of this act to incorporate the changes in Section 2981 of the Civil Code proposed by this bill. Therefore, if this bill and Assembly Bill 3393 are both chaptered and become effective on or before January 1, 1981, and Assembly Bill 3393 is chaptered before this bill and amends Section 2981 of the Civil Code, Section 7.5 of this act shall become operative on the effective date of this act and Section 7 of this act shall not become operative.

SEC. 55. It is the intent of the Legislature, if this bill and Assembly Bill 3393 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 2982 of the Civil Code, and this bill is chaptered after Assembly Bill 3393, that Section 2982 of the Civil Code, as amended by Section 22 of Assembly Bill 3393, be further amended on the effective date of this act in the form set forth in Section 8.5 of this act to incorporate the changes in Section 2982 of the Civil Code proposed by this bill. Therefore, if this bill and Assembly Bill 3393 are both chaptered and become effective on or before January 1, 1981, and Assembly Bill 3393 is chaptered before this bill and amends Section 2982 of the Civil Code, Section 8.5 of this act shall become operative on the effective date of this act and Section 8 of this act shall not become operative.

SEC. 56. It is the intent of the Legislature, if this bill and Assembly Bill 3393 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 2982.8 of the Civil Code, and this bill is chaptered after Assembly Bill 3393, that Section 2982.8 of the Civil Code, as amended by Section 24 of Assembly Bill 3393, be further amended on the effective date of this act in the form set forth in Section 9.5 of this act to incorporate the changes in Section 2982.8 of the Civil Code proposed by this bill. Therefore, if this bill and Assembly Bill 3393 are both chaptered and become effective on or before January 1, 1981, and Assembly Bill 3393 is chaptered before this bill and amends Section 2982.8 of the Civil Code, Section 9.5 of this act shall become operative on the effective date of this act and Section 9 of this act shall not become operative.

SEC. 57. It is the intent of the Legislature, if this bill and Assembly Bill 3393 are both chaptered and become effective on or before January 1, 1981, both bills amend or repeal and add Section 2984.2 of the Civil Code, and this bill is chaptered after Assembly Bill 3393, that Section 2984.2 of the Civil Code, as added by Section 26 of Assembly Bill 3393, be amended on the effective date of this act in the form set forth in Section 11.5 of this act to incorporate the changes in Section 2984.2 of the Civil Code proposed by this bill. Therefore, if this bill and Assembly Bill 3393 are both chaptered and become effective on or before January 1, 1981, and Assembly Bill 3393 is chaptered before this bill and repeals and adds Section 2984.2 to the Civil Code, Section 11.5 of this act shall become operative on the effective date of this act and Section 11 of this act shall not become operative.

SEC. 58. Section 25 of this act shall only become operative if Senate Bill 1992 of the 1979-80 Regular Session is chaptered and becomes effective on January 1, 1981, Senate Bill 1992 amends Section 11950 of the Vehicle Code, and this bill is chaptered after Senate Bill 1992. In which case, Section 25 of this act shall become operative on the operative date of this act and Section 24 of this act shall not become operative.

SEC. 59. 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. 60. The sum of one million five hundred thousand dollars (\$1,500,000) is hereby appropriated from the General Fund for transfer to the Mobilehome Revolving Fund, to be used by the Department of Housing and Community Development, subject to the approval of the Department of Finance, for purposes of funding the preparation by the Department of Housing and Community Development for the assumption of the functions contained in Chapter 4.5 (commencing with Section 18070) of, and Chapter 4.7

(commencing with Section 18075) of Part 2 of Division 13 of the Health and Safety Code. In no case shall this appropriation be used for the provision of services, but only for preparation to provide the services specified by this act.

The Department of Housing and Community Development shall reimburse the General Fund in the amount appropriated by this subdivision, plus interest, on or before July 1, 1984, from the proceeds of fees, penalties, or other moneys collected by the department pursuant to Part 2 (commencing with Section 18000) of Division 13 of the Health and Safety Code. Such interest shall be at a rate determined by the Department of Finance. The rate of interest shall be the lesser of the last available daily rate of return earned by the Pooled Money Investment Account, or the average of the annual rates of return earned by the Pooled Money Investment Account for the three fiscal years immediately preceding the fiscal year in which the moneys appropriated by this section are transferred to the Mobilehome Revolving Fund.

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## CHAPTER 1150

An act to add Section 65852.1 to the Government Code, to amend Section 18300 of, and to add Chapter 6 (commencing with Section 18100) to Part 2 of Division 13 of, the Health and Safety Code, to amend Sections 34500 and 35790 of, to add Sections 321, 387, and 35789.5 to, and to repeal and add Section 396 of, the Vehicle Code, relating to manufactured housing.

[Approved by Governor September 26, 1980. Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. This act shall be known and may be cited as the Manufactured Housing Production Act of 1980.

SEC. 2. Section 65852.1 is added to the Government Code, to read:

65852.1. For purposes of exercising powers under this chapter or pursuant to any other authority, a city, county, or city and county shall be subject to the provisions of Chapter 6 (commencing with Section 18100) of Part 2 of Division 13 of the Health and Safety Code.

SEC. 3. Chapter 6 (commencing with Section 18100) is added to Part 2 of Division 13 of the Health and Safety Code, to read:

### CHAPTER 6. MANUFACTURED HOUSING ZONING

18100. The Legislature finds and declares that manufactured housing offers Californians, who are priced out of the conventional home market, an opportunity to own and live in decent, safe, and affordable housing. The Legislature further finds and declares that it is necessary and desirable to encourage local governments to make available adequate sites for new manufactured housing

developments, including subdivisions and mobilehome parks, so that there is an adequate supply of such housing.

18101. For purposes of Chapter 4 (commencing with Section 65800) of Division 1 of Title 7 of the Government Code, mobilehomes, which are installed on a foundation system pursuant to Section 18551, shall be permitted in either zones in which conventionally constructed single-family dwellings are permitted or zones established pursuant to the authority granted under subdivision (b) without the requirement of any use permit, except as otherwise required for conventionally constructed single-family dwellings. However, this section shall not be construed to limit the authority of a city or county to do any of the following:

(a) Establish local use zone requirements, local snow load requirements, local wind pressure requirements, local fire zones, building setback standards, side and rear yard requirements, site development and property line requirements, architectural and aesthetic requirements, landscaping requirements, or standards for walls, enclosures, access, and vehicle parking with respect to such mobilehomes, in instances where such requirements or standards do not exceed those imposed on conventionally constructed single-family dwelling units.

(b) Establish certain zones for mobilehomes installed on a foundation system pursuant to Section 18551 as long as the effect of establishing such zones is not to prohibit such mobilehomes within such city or county.

18102. This chapter shall apply to all cities and counties, including charter cities, except the requirements of this chapter shall not apply to a city with a population of 1,000 or less within which 10 percent or less of the land area is zoned for residential uses. The Legislature finds and declares that in order to meet the housing needs of the citizens of California and to make homeownership an attainable goal for more residents of the state, it is necessary to set out uniform standards for zoning for mobilehomes.

SEC. 4. Section 18300 of the Health and Safety Code is amended to read:

18300. (a) The provisions of this part apply to all parts of the state and supersede any ordinance enacted by any city, county, or city and county, whether general law or chartered, applicable to the provisions of this part. Except as provided in Section 18930, the commission may adopt regulations to interpret and make specific the provisions of this part and when adopted such regulations shall apply to all parts of the state.

(b) Upon 30 days' written notice from the governing body to the department, any city, county, or city and county may assume the responsibility for the enforcement of this part, the building standards published in the State Building Standards Code relating to mobilehome parks, travel trailer parks, recreational trailer parks, temporary trailer parks, incidental camping areas, and tent camps, and the regulations adopted pursuant to the provisions of this part following approval by the department for such assumption.

(c) The commission shall adopt regulations which set forth the conditions for assumption and may include required qualifications of local enforcement agencies. The conditions set forth and the qualifications required in the regulations which set forth the conditions for assumption shall relate solely to the ability of local agencies to enforce properly the building standards published in the State Building Standards Code relating to mobilehome parks, travel trailer parks, recreational trailer parks, temporary trailer parks, incidental camping areas, and tent camps, and the other regulations relating to mobilehome parks promulgated pursuant to this part. The regulations which set forth the conditions for assumption shall not set requirements for local agencies different than those which the state maintains for its own enforcement program. When assumption is approved, the department shall transfer the responsibility for enforcement to the city, county, or city and county, together with all records of mobilehome parks within the jurisdiction of the city, county, or city and county.

(d) (1) In the event of nonenforcement of the provisions of this part, the building standards published in the State Building Standards Code relating to mobilehome parks, travel trailer parks, recreational trailer parks, temporary trailer parks, incidental camping areas, and tent camps, or the other regulations adopted pursuant to the provisions of this part by a city, county, or city and county, the department shall enforce the provisions of this part, the building standards published in the State Building Standards Code relating to mobilehome parks, travel trailer parks, recreational trailer parks, temporary trailer parks, incidental camping areas, and tent camps, and the other regulations adopted pursuant to the provisions of this part in any such city, county, or city and county after the department has given written notice to the governing body of such city, county, or city and county setting forth in what respects the city, county, or city and county has failed to discharge its responsibility, and the city, county, or city and county has failed to initiate corrective measures to carry out its responsibility within 30 days of such notice.

(2) Where the department determines that the local enforcement agency is not properly enforcing this part, the local enforcement agency shall have the right to appeal such a decision to the commission.

(e) Any city, city and county, or county, upon written notice from the governing body to the department, may cancel its assumption of responsibility for the enforcement of this part. The department, upon receipt of such notice, shall assume such responsibility within 30 days.

(f) Every city, county, or city and county, within its jurisdiction, shall enforce all of the provisions of this part, the building standards published in the State Building Standards Code relating to mobilehome parks, travel trailer parks, recreational trailer parks, temporary trailer parks, incidental camping areas, and tent camps, and the other regulations adopted pursuant to the provisions of this

part, as they relate to mobilehomes and to mobilehome accessory buildings or structures located outside of mobilehome parks.

(g) The provisions of this part shall not prevent local authorities of any city, county, or city and county, within the reasonable exercise of their police powers:

(1) From establishing certain zones for mobilehomes or mobilehome parks, travel trailers, travel trailer parks, recreational trailer parks, temporary trailer parks, or tent camps within such city, county, or city and county, or establishing types of uses and locations, including family mobilehome parks, adult mobilehome parks, mobilehome condominiums, mobilehome subdivisions, or mobilehome planned unit developments within such city, county, or city and county, as defined in the zoning ordinance, or from adopting rules and regulations by ordinance or resolution prescribing standards of lot, yards, or park area, landscaping, walls or enclosures, signs, access, and vehicle parking or from prescribing the prohibition of certain uses for mobilehome parks, travel trailer parks, recreational trailer parks, temporary trailer parks, or tent camps. This paragraph shall not apply to mobilehomes which are installed on a foundation system pursuant to Section 18551.

(2) From regulating the construction and use of equipment and facilities located outside of a mobilehome or camp car used to supply gas, water, or electricity thereto, except facilities owned, operated, and maintained by a public utility, or to dispose of sewage or other waste therefrom when such facilities are located outside a mobilehome park, travel trailer park, recreational trailer park, or temporary trailer park for which a permit is required by this part, or the regulations adopted pursuant thereto.

(3) From requiring a permit to use a mobilehome or camp car outside a mobilehome park, travel trailer park, recreational trailer park, or temporary trailer park for which a permit is required by this part or by regulations adopted pursuant thereto, and require a fee therefor by local ordinance commensurate with the cost of enforcing this part and local ordinance with reference to the use of mobilehomes and camp cars, which permit may be refused or revoked if such use violates any provisions of this part or Part 2 (commencing with Section 18000) of this division, any regulations adopted pursuant thereto, or any local ordinance applicable to such use.

(4) From requiring a local building permit to construct an accessory structure for a mobilehome when such mobilehome is located outside a mobilehome park, travel trailer park, recreational trailer park or temporary trailer park, under circumstances which the provisions of this part or Part 2 (commencing with Section 18000) and the regulation adopted pursuant thereto do not require the issuance of a permit therefor by the department.

SEC. 7. Section 321 is added to the Vehicle Code, to read:

321. "Factory-built housing" is a structure as defined in Section 19971 of the Health and Safety Code. As used in this code, factory-built housing is a trailer coach which is in excess of eight feet in width or in excess of 40 feet in length.

SEC. 8. Section 387 is added to the Vehicle Code, to read:

387. "Manufactured home" is a mobilehome, as defined in Section 18008 of the Health and Safety Code, a commercial coach, as defined in Section 18012 of the Health and Safety Code, and factory-built housing, as defined in Section 19971 of the Health and Safety Code. Manufactured home does not include a recreational vehicle, as defined in Section 18215.5 of the Health and Safety Code.

SEC. 9. Section 396 of the Vehicle Code is repealed.

SEC. 10. Section 396 is added to the Vehicle Code, to read:

396. "Mobilehome" is a structure as defined in Section 18008 of the Health and Safety Code. As used in this code, a mobilehome is a trailer coach which is in excess of eight feet in width or in excess of 40 feet in length and is subject to the registration requirements of this code.

SEC. 10.5. 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) Manufactured homes which, when moved upon the highway, are required to be moved under a permit as specified in Section 35780 or 35790.

SEC. 11. Section 35789.5 is added to the Vehicle Code, to read:

35789.5. The Legislature finds and declares that current restrictions on movement of manufactured homes in excess of 12 feet in width have unduly restricted the ability of the California manufactured housing industry to (1) meet the needs of consumers who wish to purchase single-wide manufactured homes which are 14 feet in width, (2) produce units which may be transported to other states, and (3) manufacture units with eaves which provide structural and aesthetic benefits. The Legislature further finds and declares that allowing movement of manufactured homes which are 14 feet wide, with appropriate safety safeguards, will benefit the state's economy and will allow production of more affordable and aesthetic manufactured homes.

SEC. 12. Section 35790 of the Vehicle Code is amended to read:

35790. (a) The Department of Transportation or local authorities with respect to highways under their respective jurisdictions may, upon application in writing and if good cause appears, issue a special or annual permit in writing authorizing the applicant to move any trailer coach in excess of the maximum width but not exceeding 12 feet in width, except that the department or

local jurisdictions may issue such permits for movement of mobilehomes which are, or factory-built housing which is, 14 feet in total width, exclusive of lights and devices provided for in Sections 35109, 35110, and 35112, upon any highway under the jurisdiction of the party granting such permit.

(b) A public agency in the exercise of its discretion in granting permits for the movement of overwidth manufactured homes, and in considering the individual circumstances of each case, may use merchandising or relocation of residence as a basis for movement for good cause.

(c) The application for a special permit shall specifically describe the manufactured home to be moved and the particular highways over which the permit to operate is requested.

The application for an annual permit shall specifically describe the power unit to be used to tow the overwidth manufactured homes and the particular highways over which the permit to operate is requested. The annual permit shall be subject to all of the conditions of this section and any additional conditions imposed by the public agency.

(d) The Department of Transportation or local authority is authorized to establish seasonal or other time limitations within which a manufactured home may be moved on the highways indicated, and may require an undertaking or other security as may be deemed necessary to protect the highways and bridges from injury or to provide indemnity for any injury resulting from the operation.

(e) Permits for the movement of manufactured homes as provided for in this section may not be issued except to licensed manufacturers, dealers and transporters and only under the following conditions:

(1) The manufactured home for which the permit is issued shall comply with the provisions of Sections 35550 and 35551.

(2) In the case of a permit issued on an individual or repetitive trip basis, the applicant has first received the approval of a city or county if the trip will include movement on streets or highways under the jurisdiction of such city or county. The application for such a permit shall indicate the complete route of the proposed move and shall specify all cities and counties which have approved the move. This paragraph shall not be construed to require the Department of Transportation to verify the information provided by an applicant with respect to movement on streets or highways under local jurisdiction.

(3) It shall be a violation of any permit, issued by the Department of Transportation, authorizing a move only on a state highway for such move to be extended to a street or highway under the jurisdiction of a city or county unless the move has been approved by the city or county.

(f) The Department of Transportation, in cooperation with the Department of the California Highway Patrol, or local authority shall have the authority to establish additional reasonable permit

regulations as they may deem necessary in the interest of public safety, which regulations shall be consistent with this section.

(g) Every permit, and a copy of the tax clearance certificate, certificate of origin, or dealer's notice of transfer, when such certificate or notice is required to be issued, shall be carried in the manufactured home or power unit to which it refers and shall be open to inspection of any peace officer or traffic officer, any authorized agent of the Department of Transportation or any other officer or employee charged with the care and protection of the highways.

(h) It is unlawful for any person to violate any of the terms or conditions of any such permit.

(i) To the extent that the application of this section to highways which are a part of the National System of Interstate and Defense Highways (as referred to in subdivision (a) of Section 108 of the Federal-Aid Highway Act of 1956) would cause this state to be deprived of any federal funds for highway purposes, this section to such extent shall not be applicable to highways which are a part of such system.

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 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. 14. If Senate Bill 1960 is chaptered and becomes effective, then Sections 2, 3, and 4 of this bill shall not take effect.

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## CHAPTER 1151

An act to amend Section 66451.1 of, and to add Section 66451.4 to, the Government Code, relating to land subdivisions.

[Approved by Governor September 26, 1980. Filed with  
Secretary of State September 29, 1980 ]

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

SECTION 1. Section 66451.1 of the Government Code is amended to read:

66451.1. The time limits specified in this chapter for reporting and acting on maps may be extended by mutual consent of the subdivider and the advisory agency or legislative body required to report or act.

However, no advisory agency or legislative body, may require a routine waiver of time limits as a condition of accepting the

application for, or processing of tentative, final, or parcel maps, unless the routine waiver is obtained for the purpose of permitting concurrent processing of related approvals or an environmental review on the same development project.

SEC. 2. Section 66451.4 is added to the Health and Safety Code, to read:

66451.4. (a) In addition to the notice required by Section 66451.3, whenever approval of a tentative map will constitute a substantial or significant deprivation of the property rights of other landowners, the local agency shall provide notice of the application to all persons, including businesses, corporations, or other public or private entities, shown on the last equalized assessment roll, as owning real property within 300 feet of the property which is the subject of the application.

(b) The notice shall be given by at least one of the following methods:

- (1) Direct mailing to the owners.
- (2) Posting of notice by the local agency on and off the site in the area where the project is to be located.
- (3) Delivery of notice by any means other than mail to the owners.
- (4) Any other method reasonably calculated by the local agency to provide actual notice of the hearing.

(c) Nothing contained in this section shall preclude a local agency from providing additional notice by other means, nor shall the requirements of this section preclude the local agency from providing the necessary notice at the same time and in the same manner as public notice otherwise required by law for such project.

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 this act affirms for the state that which has been declared existing law or regulation by action of the courts.

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## CHAPTER 1152

An act to amend Sections 11010 and 11018.2 of, to add Sections 11010.2 and 11010.3 to, and to repeal and add Section 11018.6 of, the Business and Professions Code, to amend Sections 65361, 65800, 66411, 66451.1, 66452.1, 66452.2 and 66499.37 of, to add Chapter 4.2 (commencing with Section 65913) to Division 1 of Title 7 of, and to repeal and add Section 65862 to, the Government Code, relating to land use and development.

[Approved by Governor September 26, 1980. Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. Section 11010 of the Business and Professions Code is amended to read:

11010. Except as provided in this chapter, prior to the time when subdivided lands are to be offered for sale or lease, the owner, his agent or subdivider shall notify the commissioner in writing of his intention to sell or lease such offering.

The notice of intention shall contain the following information:

- (a) The name and address of the owner.
- (b) The name and address of the subdivider.
- (c) The legal description and area of lands.
- (d) A true statement of the condition of the title to the land, particularly including all encumbrances thereon.
- (e) A true statement of the terms and conditions on which it is intended to dispose of the land, together with copies of any contracts intended to be used.
- (f) A true statement of the provisions, if any, that have been made for public utilities in the proposed subdivision, including water, electricity, gas, telephone, and sewerage facilities.
- (g) A true statement of the use or uses for which the proposed subdivision will be offered.
- (h) A true statement of the provisions, if any, limiting the use or occupancy of the parcels in the subdivision.
- (i) A true statement of the amount of indebtedness which is a lien upon the subdivision or any part thereof, and which was incurred to pay for the construction of any onsite or offsite improvement, or any community or recreational facility.
- (j) A true statement or reasonable estimate, if applicable, of the amount of any indebtedness which has been or is proposed to be incurred by an existing or proposed special district, entity, taxing area or assessment district, within the boundaries of which, the subdivision, or any part thereof, is located, and which is to pay for the construction or installation of any improvement or to furnish community or recreational facilities to such subdivision, and which amounts are to be obtained by ad valorem tax or assessment, or by a special assessment or tax upon the subdivision, or any part thereof.
- (k) The location of all existing airports, and of all proposed airports shown on the general plan of any city or county, located within two statute miles of the subdivision.
- (l) A true statement, if applicable, referencing any soils or geologic reports that have been prepared specifically for the subdivision.
- (m) A true statement of whether or not fill is used, or is proposed to be used in the subdivision and a statement giving the name and the location of the public agency where information concerning soil conditions in the subdivision is available.
- (n) Such other information as the owner, his or her agent, or subdivider, may desire to present.

SEC. 2. Section 11010.2 is added to the Business and Professions Code, to read:

11010.2. Upon receipt of a notice of intention pursuant to Section 11010 and an application for issuance of a public report, the commissioner shall review such notice and application to determine if such notice and application are substantially complete, with respect to quantitative requirements. Upon determination by the commissioner that the notice and application are substantially complete, the commissioner shall do all of the following:

(a) Notify the applicant in writing of such determination within 15 days of receipt of the notice and application. Such notification shall include any request for additional information, as specified in Section 11011.

(b) Provide the applicant with a listing of all deficiencies and substantive inadequacies which exist in such notice and application within 90 days upon the determination that the notice and applications are substantially complete, in the case of subdivisions specified in Section 11000.1, 11000.5, or 11004.5, and within 30 days of such determination, in the case of other subdivisions.

(c) Issue a public report within 30 days, in the case of a subdivision specified in Section 11000.1, 11000.5, or 11004.5, or 15 days, in the case of other subdivisions, after correction of all the deficiencies and substantive inadequacies of which the applicant was informed pursuant to subdivision (b) and after the applicant has provided additional information such as may be requested under subdivision (a).

In the event that the commissioner determines pursuant to this section, that a notice of intention and application are not substantially complete, he or she shall inform the applicant, in writing and within 15 days of the receipt of such notice and application, in what respects the notice and application are not complete.

The commissioner shall adopt regulations, in accordance with Chapter 3.5 (commencing with Section 11340) of Division 3 of Title 2 of the Government Code, which define "substantially complete" and which list all the requirements necessary for a notice of intention and application to be considered "substantially complete."

This section shall not apply to filings made exclusively under Section 11010.1. Nothing in this section shall require the commissioner to issue a public report where grounds for denial exist, provided that issuance of a public report shall not be denied for inadequate information if the cause thereof is the commissioner's failure to comply with this section.

SEC. 3. Section 11010.3 is added to the Business and Professions Code, to read:

11010.3. The notice of intention specified in Section 11010 shall not be required for a proposed sale or lease of expressly zoned industrial subdivisions which are limited in use to industrial purposes and expressly zoned commercial subdivisions which are limited to

use in commercial purposes.

SEC. 4. Section 11018.2 of the Business and Professions Code is amended to read:

11018.2. No person shall sell or lease, or offer for sale or lease in this state any lots or parcels in a subdivision without first obtaining a public report from the commissioner.

This section shall not apply to subdivisions for which a notice of intention is not required pursuant to this chapter.

SEC. 5. Section 11018.6 of the Business and Professions Code is repealed.

SEC. 5.5. Section 11018.6 is added to the Business and Professions Code, to read:

11018.6. The commissioner shall not be a responsible agency for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code). Receipt by the commissioner of a copy of an environmental impact report or negative declaration prepared pursuant to the California Environmental Quality Act shall be conclusive evidence of compliance with such act for purposes of issuing a subdivision public report.

SEC. 6. Section 65361 of the Government Code is amended to read:

65361. (a) Except as provided in subdivision (b), no mandatory element of a general plan shall be amended more frequently than three times during any calendar year, which amendment or amendments may occur at any time as determined by the legislative body.

(b) This section does not apply to amendment of any general plan element requested and necessary for the development, according to a specific proposal, of residential units, at least 25 percent of which will be occupied by or available to persons and families of low or moderate income, as defined by Section 50093 of the Health and Safety Code. This section does not apply to the adoption of any element to the general plan.

SEC. 7. Section 65800 of the Government Code is amended to read:

65800. It is the purpose of this chapter to provide for the adoption and administration of zoning laws, ordinances, rules and regulations by counties and cities, as well as to implement such general plan as may be in effect in any such county or city. Except as provided in Article 4 (commencing with Section 65910) and in Section 65913.1, the Legislature declares that in enacting this chapter it is its intention to provide only a minimum of limitation in order that counties and cities may exercise the maximum degree of control over local zoning matters.

SEC. 8. Section 65862 of the Government Code is repealed.

SEC. 9. Section 65862 is added to the Government Code, to read:

65862. When inconsistency between the general plan and zoning arises as a result of adoption of or amendment to a general plan, or

any element thereof, hearings held pursuant to Section 65854 or 65856 for the purpose of bringing zoning into consistency with the general plan, as required by Section 65860, may be held at the same time as hearings held for the purpose of adopting or amending a general plan, or any element thereof. However, the hearing on the general plan amendment may, at the discretion of the local agency, be concluded prior to any consideration of adoption of a zoning change.

It is the intent of the Legislature, in enacting this section, that local agencies shall, to the extent possible, concurrently process applications for general plan amendments and zoning changes which are needed to permit development so as to expedite processing of such applications.

SEC. 10. Chapter 4.2 (commencing with Section 65913) is added to Division 1 of Title 7 of the Government Code, to read:

#### CHAPTER 4.2. HOUSING DEVELOPMENT APPROVALS

65913. The Legislature finds and declares that there exists a severe shortage of affordable housing, especially for persons and families of low and moderate income, and that there is an immediate need to encourage the development of new housing, not only through the provision of financial assistance, but also through changes in law designed (1) to expedite the local and state residential development process and (2) to assure that local governments zone sufficient land at densities high enough for production of affordable housing. The Legislature further finds and declares that the costs of new housing developments have been increased, in part, by the existing permit process and by existing land use regulations and that vitally needed housing developments have been halted or rendered infeasible despite the benefits to the public health, safety, and welfare of such developments and despite the absence of adverse environmental impacts. It is, therefore, necessary to enact this chapter and to amend existing statutes which govern housing development so as to provide greater encouragement for local and state governments to approve needed and sound housing developments.

65913.1. In exercising its authority to zone for land uses, a city, county, or city and county shall designate and zone sufficient vacant land for residential use with appropriate standards, in relation to zoning for nonresidential use, and in relation to growth projections of the general plan to meet housing needs as identified in the general plan. For the purposes of this section, "appropriate standards" shall mean densities and requirements with respect to minimum floor areas, building setbacks, rear and side yards, parking, the percentage of a lot which may be occupied by a structure, amenities, and other requirements imposed on residential lots pursuant to the zoning authority which contribute significantly to the economic feasibility of producing housing at the lowest possible cost given economic and

environmental factors, the public health and safety, and the need to facilitate the development of housing for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code. However, nothing in this section shall be construed to enlarge or diminish the authority of a city, county, or city and county to require a developer to construct such housing.

Nothing in this section shall be construed to require a city, county, or city and county in which less than 5 percent of the total land area is undeveloped to zone a site within an urbanized area of such city, county, or city and county for residential uses at densities which exceed those on adjoining residential parcels by 100 percent. For the purposes of this section, "vacant land" shall not include agricultural preserves pursuant to Chapter 7 (commencing with Section 51200) of Part 1 of Division 1 of Title 5. For the purposes of this section, "urbanized area" means a central city or cities and surrounding closely settled territory, as defined by the United States Department of Commerce Bureau of the Census in the Federal Register, Volume 39, Number 85, for Wednesday, May 1, 1974, at pages 15202-15203, and as periodically updated.

65913.2. In exercising its authority to regulate subdivisions under Division 2 (commencing with Section 66410), a city, county, or city and county shall:

(a) Refrain from imposing criteria for design, as defined in Section 66418, or improvements, as defined in Section 66419, for the purpose of rendering infeasible the development of housing for any and all economic segments of the community. However, nothing in this section shall be construed to enlarge or diminish the authority of a city, county, or city and county under other provisions of law to require a developer to construct such housing.

(b) Consider the effect of ordinances adopted and actions taken by it with respect to the housing needs of the region in which the local jurisdiction is situated.

65913.3. Every city, county, or city and county shall, on or before January 1, 1983, upon request of a developer, provide for review of all applications and permits for residential developments, as required by such city, county, or city and county, by a single administrative entity. Such city, county, or city and county may charge fees to defray costs which are directly attributable to the review of the applications of such developer by a single administrative entity. This section shall not be construed to require delegation of development review functions performed by the legislative body pursuant to any other provision of law.

For the purposes of this section, "administrative entity" means a person or agency designated by the legislative body of the city, county, or city and county to oversee review of all permits or applications required by the local agency.

65913.4. This chapter shall apply to all cities, including charter cities, counties, and cities and counties.

The Legislature finds and declares that the development of a

sufficient supply of housing to meet the needs of all Californians is a matter of statewide concern.

SEC. 10.5. Section 66411 of the Government Code is amended to read:

66411. Regulation and control of the design and improvement of subdivisions are vested in the legislative bodies of local agencies. Each local agency shall by ordinance regulate and control subdivisions for which this division requires a tentative and final or parcel map. In the development, adoption, revision, and application of such ordinance, the local agency shall comply with the provisions of Section 65913.2. Such ordinance shall specifically provide for proper grading and erosion control, including the prevention of sedimentation or damage to offsite property. Each local agency may by ordinance regulate and control other subdivisions, provided that such regulations are not more restrictive than the regulations for those subdivisions for which a tentative and final or parcel map are required by this division, and provided further that such regulations shall not be applied to short-term leases (terminable by either party on not more than 30 days' notice in writing) of a portion of the operating right-of-way of a railroad corporation defined as such by Section 230 of the Public Utilities Code unless a showing is made in individual cases, under substantial evidence, that public policy necessitates the application of such regulations to such short-term leases in such individual cases.

SEC. 11. Section 66451.1 of the Government Code is amended to read:

66451.1. (a) The time limits specified in this chapter for reporting and acting on maps may be extended by mutual consent of the subdivider and the advisory agency or legislative body required to report or act. However, no advisory agency or legislative body, may require a routine waiver of time limits as a condition of accepting the application for, or processing of tentative, final, or parcel maps, unless the routine waiver is obtained for the purpose of permitting concurrent processing of related approvals or an environmental review on the same development project.

(b) At the time that the subdivider makes an application pursuant to this division, a local agency shall determine whether or not it is able to meet the time limits specified in this chapter for reporting and acting on maps. If the local agency determines that it will be unable to meet such time limits, such agency shall, upon request of a subdivider and for the purpose of meeting such time limits, contract or employ a private entity or persons on a temporary basis to perform such services as necessary to permit the agency to meet such time limits. However, a local agency need not enter into such a contract or employ such persons if it determines either that (1) no such entities or persons are available or qualified to perform such services or (2) the local agency would be able to perform services in a more rapid fashion than would any available and qualified persons or entities.

Such entities or persons employed by a local agency may, pursuant to an agreement with the local agency, perform all functions necessary to process tentative, final, and parcel maps and to comply with other requirements imposed pursuant to this division or by local ordinances adopted pursuant to this division, except those functions reserved by this division or local ordinance to the legislative body. A local agency may charge the subdivider fees in an amount necessary to defray costs directly attributable to employing or contracting with entities or persons performing services pursuant to this section.

SEC. 12. Section 66452.1 of the Government Code is amended to read:

66452.1. (a) If the advisory agency is not authorized by local ordinance to approve, conditionally approve or disapprove the tentative map, it shall make its written report on the tentative map to the legislative body within 30 days after the filing thereof with its clerk.

(b) If the advisory agency is authorized by local ordinance to approve, conditionally approve, or disapprove the tentative map, it shall take such action within 50 days after the filing thereof with its clerk and report its action to the subdivider.

SEC. 13. Section 66452.2 of the Government Code is amended to read:

66452.2. (a) If there is an advisory agency which is not authorized by local ordinance to approve, conditionally approve or disapprove the tentative map, at the next regular meeting of the legislative body following the filing of the advisory agency's report with it, the legislative body shall fix the meeting date at which the tentative map will be considered by it, which date shall be within 30 days thereafter and the legislative body shall approve, conditionally approve, or disapprove the tentative map within such 30-day period.

(b) If there is no advisory agency, the clerk of the legislative body shall submit the tentative map to the legislative body at its next regular meeting which shall approve, conditionally approve or disapprove such map within 30 days thereafter.

SEC. 14. Section 66499.37 of the Government Code is amended to read:

66499.37. Any action or proceeding to attack, review, set aside, void or annul the decision of an advisory agency, appeal board or legislative body concerning a subdivision, or of any of the proceedings, acts or determinations taken, done or made prior to such decision, or to determine the reasonableness, legality or validity of any condition attached thereto, shall not be maintained by any person unless such action or proceeding is commenced and service of summons effected within 90 days after the date of such decision. Thereafter all persons are barred from any such action or proceeding or any defense of invalidity or unreasonableness of such decision or of such proceedings, acts or determinations. Any such proceeding shall take precedence over all matters of the calendar of the court

except criminal, probate, eminent domain and forcible entry and unlawful detainer proceedings.

SEC. 15. 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.

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## CHAPTER 1153

An act to amend Sections 12800, 13975, 13976, 13978, 13978.2, 13978.4, and 13978.6 of, to amend the heading of Part 4.5 (commencing with Section 13975) of Division 3 of Title 2 of, to add Section 12802.8 to, and to repeal Sections 13985, 13986, 13987, and 13988 of, the Government Code, and to amend Sections 50669, 50670, 50776, and 50777 of the Health and Safety Code, relating to housing, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1980 Filed with  
Secretary of State September 29, 1980 ]

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

SECTION 1. Section 12800 of the Government Code is amended to read:

12800. There are in the state government the following agencies: State and Consumer Services; Business, Transportation and Housing; Health and Welfare; and Resources.

Whenever the term "Agriculture and Services Agency" appears in any law, it means the "State and Consumer Services Agency," and whenever the term "Secretary of Agriculture and Services Agency" appears in any law, it means the "Secretary of State and Consumer Services Agency."

Whenever the term "Business and Transportation Agency" appears in any law, it means the "Business, Transportation and Housing Agency," and whenever the term "Secretary of the Business and Transportation Agency" appears in any law, it means the "Secretary of the Business, Transportation and Housing Agency."

SEC. 1.5. Section 12802.8 is added to the Government Code, to read:

12802.8. The Governor may, with respect to the Business, Transportation and Housing Agency, appoint a Deputy Secretary of Housing, who shall serve as the secretary's primary advisor on housing matters.

The Deputy Secretary of Housing shall hold office at the pleasure

of the secretary and shall receive a salary as shall be fixed by the secretary with the approval of the Department of Finance.

SEC. 2. The heading of Part 4.5 (commencing with Section 13975) of Division 3 of Title 2 of the Government Code is amended to read:

**PART 4.5. BUSINESS, TRANSPORTATION AND HOUSING  
AGENCY**

SEC. 3. Section 13975 of the Government Code is amended to read:

13975. The Business and Transportation Agency in state government is hereby renamed the Business, Transportation and Housing Agency. The agency consists of the Department of Alcoholic Beverage Control, the Department of the California Highway Patrol, the Department of Corporations, the Department of Economic and Business Development, the Department of Housing and Community Development, the Department of Insurance, the Department of Motor Vehicles, the Department of Real Estate, the Department of Savings and Loan, the Department of Transportation, the State Banking Department, the Stephen P. Teale Consolidated Data Center; and the California Housing Finance Agency is also located within the Business, Transportation and Housing Agency, as specified in Division 31 (commencing with Section 50000) of the Health and Safety Code.

SEC. 4. Section 13976 of the Government Code is amended to read:

13976. The agency is under the supervision of an executive officer known as the Secretary of the Business, Transportation and Housing Agency. He shall be appointed by the Governor, subject to confirmation by the Senate, and shall hold office at the pleasure of the Governor.

The annual salary of the secretary is provided for by Chapter 6 (commencing with Section 11550) of Part 1 of Division 3 of Title 2 of this code.

As used in this part, "agency" and "secretary" refer to the Business, Transportation and Housing Agency and the Secretary of the Business, Transportation and Housing Agency, respectively, unless the context otherwise requires.

SEC. 5. Section 13978 of the Government Code is amended to read:

13978. The secretary has the power of general supervision over, and is directly responsible to the Governor for, the operations of each department, office, and unit within the agency. The secretary may issue such orders as the secretary deems appropriate to exercise any power or jurisdiction, or to assume or discharge any responsibility, or to carry out or effect any of the purposes vested by law in any department in the agency.

SEC. 6. Section 13978.2 of the Government Code is amended to

read:

13978.2. The Secretary of the Business, Transportation and Housing Agency shall advise the Governor on, and assist the Governor in establishing, major policy and program matters affecting each department, office, or other unit within the agency, and shall serve as the principal communication link for the effective transmission of policy problems and decisions between the Governor and each such department, office, or other unit.

SEC. 7. Section 13978.4 of the Government Code is amended to read:

13978.4. The Secretary of the Business, Transportation and Housing Agency shall exercise the authority vested in the Governor in respect to the functions of each department, office, or other unit within the agency, including the adjudication of conflicts between or among the departments, offices, or other units; and shall represent the Governor in coordinating the activities of each such department, office, or other unit with those of other agencies, federal, state, or local.

SEC. 8. Section 13978.6 of the Government Code is amended to read:

13978.6. The Secretary of the Business, Transportation and Housing Agency shall be generally responsible for the sound fiscal management of each department, office, or other unit within the agency. The secretary shall review and approve the proposed budget of each such department, office, or other unit. The secretary shall hold the head of each such department, office, or other unit responsible for management control over the administrative, fiscal, and program performance of his or her department, office, or other unit. The secretary shall review the operations and evaluate the performance at appropriate intervals of each such department, office, or other unit, and shall seek continually to improve the organization structure, the operating policies, and the management information systems of each such department, office, or other unit.

SEC. 9. Section 13985 of the Government Code is repealed.

SEC. 10. Section 13986 of the Government Code is repealed.

SEC. 11. Section 13987 of the Government Code is repealed.

SEC. 12. Section 13988 of the Government Code is repealed.

SEC. 13. Section 50669 of the Health and Safety Code is amended to read:

50669. As used in Section 50670:

(a) "Deferred-payment loan" means a loan for acquisition and rehabilitation of a rental housing development which (1) has a term of not more than 25 years, but which shall not in any event exceed the useful life of the rental housing development for which such loan is made, as determined by the department, whichever is less, and (2) is repaid in a single payment upon refinancing of such development at the end of the term of the loan. Such loans shall bear interest at the rate of 3 percent per annum on the unpaid principal balance, provided however, that the department may reduce or eliminate

interest payments on a loan for any year or alternatively defer interest payments until the deferred-payment loan is repaid, if in the exercise of sound discretion, the department determines such action is necessary to provide affordable rents to elderly or handicapped households of very low and low income.

(b) "Rental housing development" means a residential structure or structures containing five or more rental dwelling units, provided that each unit is equipped with a kitchen and bathroom, or a structure or structures intended for use as a group home by five or more handicapped individuals.

(c) "Sponsor" means any individual, joint venture, partnership, limited partnership, trust, corporation, cooperative, local public entity, duly constituted governing body of an Indian reservation or rancheria, or other legal entity, or any combination thereof, certified by the department as qualified to own, manage, and rehabilitate a rental housing development. A sponsor may be organized for profit or limited profit or be nonprofit.

SEC. 14. Section 50670 of the Health and Safety Code is amended to read:

50670. (a) The department shall establish a Demonstration Housing Rehabilitation Program for the Elderly and Handicapped under which it may make deferred-payment loans to sponsors for the rehabilitation or the acquisition and rehabilitation of rental housing developments to be occupied by elderly or handicapped households of very low and low income. The department may make such loans in an amount necessary to acquire and rehabilitate a rental housing development and to provide affordable rents, when considered in conjunction with other financing on or assistance to such development, for elderly or handicapped households of very low and low income for the term of the regulatory agreement pursuant to subdivision (d). In no event, may the amount of the loan exceed 90 percent of the combined amount of the fair market value of the rental housing development and the cost of rehabilitation work to be undertaken. However, with respect to a nonprofit sponsor, the department may loan up to 100 percent of such combined amount.

(b) In making a loan pursuant to this section, the department may disburse funds in a manner and in accordance with a schedule which ensures the economic feasibility of the rental housing development and the completion of the rehabilitation work and which protects the interests of the state.

(c) Prior to making a loan commitment pursuant to this section, the department shall do all of the following:

(1) Inspect the rental housing development to be assisted pursuant to this section to determine the economic feasibility of rehabilitating such development.

(2) Approve a plan submitted by the sponsor which includes a plan for occupancy of the development, a description of the nature and costs of rehabilitation to be undertaken, and projections as to rental levels in such development.

(d) Prior to disbursement of any funds pursuant to this section, the department shall enter into a regulatory agreement with the sponsor which provides for the limitation on profits in the operation of the rental housing development. When the sponsor is not a nonprofit sponsor or a local public entity, the regulatory agreement with the sponsor shall limit the distribution of the sponsor's earnings to an annual amount no greater than 6 percent of the sponsor's actual investment (excluding unaccrued liabilities of the sponsor) in the rental housing development. The regulatory agreement shall also set standards for tenant selection to ensure occupancy by elderly or handicapped households of very low and low income for the term of such agreement, govern the terms of occupancy agreements, and contain other provisions necessary to carry out the purposes of this section. Upon recordation of the agreement in the office of the county recorder in the county in which the real property subject to such agreement is located, the agreement shall be binding upon the sponsor and successors in interest for the original term of the loan, as determined by the department, but for a period of not more than 25 years.

(e) The department shall fix and alter, from time to time, a schedule of rents on each development as may be necessary to provide residents of the rental housing development with affordable rents, to the extent consistent with the financial integrity of such development. No sponsor shall increase the rent on any unit without the prior permission of the department which shall be given only if the sponsor affirmatively demonstrates that such increase is required to defray necessary operating costs or to avoid jeopardizing the fiscal integrity of the housing development. However, in the event that the department does not act upon a request for a rent increase within 60 days from documented receipt of the request, such increase shall be deemed approved.

(f) The department may annually inspect rental housing developments assisted pursuant to this section to ensure compliance with the terms of the regulatory agreement and may require such audits, financial statements, and other documents as are necessary to ensure compliance with the terms of the regulatory agreement and to ensure occupancy by elderly or handicapped households of very low and low income.

(g) With respect to rental housing developments rehabilitated pursuant to this section:

(1) The department shall make payments and shall provide advisory assistance to persons and families permanently displaced as a result of such rehabilitation in accordance with the requirements of subdivisions (b) and (e) of Section 7265.3 of the Government Code.

(2) The department shall provide affordable temporary housing to elderly and handicapped households of very low and low income who reside in a rental housing development prior to rehabilitation or acquisition and rehabilitation of such housing development, who

are required to move during the period of rehabilitation, and who occupy a unit in such development upon completion of rehabilitation. Such temporary housing shall be provided until units in the rental housing development are available for occupancy by such households.

(3) For the purposes of subdivision (f) of Section 7265.3 of the Government Code, moneys appropriated for purposes of this chapter by Chapter 1043 of the Statutes of 1979, whether or not reappropriated for transfer to the Housing Rehabilitation Loan Fund, shall constitute available state funds.

(4) Elderly and handicapped households of very low and low income displaced as a result of rehabilitation pursuant to this section shall be accorded first priority in occupying units in the rental housing development, from which they were displaced, subsequent to rehabilitation.

SEC. 15. Section 50776 of the Health and Safety Code, as added by Chapter 1043 of the Statutes of 1979, is amended to read:

50776. Financial assistance pursuant to Section 50775 may be provided directly by the department or through a mortgage lender certified by the department to participate in the program authorized by Section 50775. Such a mortgage lender may be a bank or trust company, mortgage banker, federal or state chartered savings and loan association, governmental agency, or other financial institution, including credit unions, deemed capable by the department, pursuant to regulations adopted 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, of providing services or mortgage loans in conjunction with dwelling units, mobilehomes, or shares in stock cooperatives for which such financial assistance is provided.

The department or mortgage lender shall enter into a contract with each recipient of financial assistance under Section 50775, requiring the recipient, upon sale of the dwelling unit, mobilehome, or share in a stock cooperative for which the assistance was provided, to pay to the department from the portion of the proceeds of the sale, an amount proportionate to the percentage of the initial purchase price which was paid with financial assistance provided under Section 50775. Such a contract may provide that the department shall not receive less than the amount of assistance provided under Section 50775. However, if the recipient has made improvements to the dwelling unit or mobilehome, as the case may be, the increase in the fair market value of the unit or mobilehome arising from the improvement shall be added to the fair market value of the recipient's share in such unit or mobilehome immediately before such improvements are made, to determine the recipient's relative financial participation for the purpose of calculating the amount to be paid the department. Improvements which may be added to the purchase price for this purpose shall be defined by regulations of the department, adopted 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, and shall be limited to substantial repairs, renovations, or additions undertaken with respect to the dwelling unit or mobilehome assisted, which increase the value of the dwelling unit or mobilehome, or which bring such dwelling unit or mobilehome into conformance with local or state building or housing standards.

Any contract pursuant to this section may permit the recipient of financial assistance to terminate the contract upon payment to the department of the amount which would be owed the department if the dwelling unit, mobilehome or share in a stock cooperative were sold at fair market value at the time of such repayment.

Contracts pursuant to this section shall require payment of the full amount of property taxes, insurance, and costs of normal maintenance by the household receiving assistance pursuant to Section 50775. Every contract required by this section shall be secured by a deed of trust upon the dwelling unit or mobilehome for which the assistance is provided, or if the financial assistance is for purchase of a share in a stock cooperative association, any security interest determined adequate by the department to protect the interests of the state. Such deeds of trust or other security devices shall be recorded in the office of the county recorder of the county in which the dwelling unit is located.

SEC. 16. Section 50777 of the Health and Safety Code, as amended by Chapter 1045 of the Statutes of 1979, is amended to read:

50777. The department may provide financial assistance to nonprofit corporations and stock cooperative corporations to enable such corporations to develop or purchase a mobilehome park. Such financial assistance shall not exceed 49 percent of the purchase price or development costs of the mobilehome park which may be directly attributed to the number or ratio of persons or families with incomes, not in excess of the median income of the county, who will occupy the park.

In addition, the department may provide financial assistance to persons or families with incomes not in excess of the median income for the county to enable such persons or families to purchase a share in a stock cooperative corporation which owns a mobilehome park. The department may establish a maximum purchase price for such shares. Upon sale of a share in a stock cooperative corporation assisted pursuant to this section, the shareholder shall pay to the department from the proceeds of the sale of such share, an amount proportionate to the percentage of the initial purchase price which was paid with financial assistance provided by the department pursuant to this section, as adjusted for improvements made by the corporation or shareholder. The contract for assistance may require that the department not receive in repayment less than the amount of assistance originally provided. The adjustment for improvements shall be made as set forth in Section 50776.

Upon sale of a mobilehome park owned by a nonprofit corporation

and assisted pursuant to this section, the corporation shall pay to the department from the proceeds of the sale of such park, an amount proportionate to the percentage of the initial purchase price or development cost which was paid by the department pursuant to this section, as adjusted for improvements made by the corporation. The contract for assistance may require that the department not receive in repayment less than the amount of assistance originally provided. The adjustment for improvements shall be made as set forth in Section 50776. For such purpose "improvements" shall be defined by regulations of the department, adopted 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, and shall be limited to substantial repairs, renovations or additions which increase the value of the mobilehome park or of the shares of a stock cooperative corporation or which bring such mobilehome parks or mobilehomes within mobilehome parks assisted pursuant to this section into conformance with local or state building or housing standards.

Such financial assistance shall be provided pursuant to a contract which requires, among other things, restrictions on occupancy, maintenance and payment of the full amount of taxes and insurance by the shareholders. Every contract required by this section shall be secured by a deed of trust upon the mobilehome park for which assistance is provided, or if the financial assistance is for purchase of a share in a mobilehome park stock cooperative association, any security interest determined adequate by the department to protect the interests of the state. Such deeds of trust shall be recorded in the office of the county recorder of the county in which such mobilehome park is located. Any contract pursuant to this section may permit the recipient of financial assistance to terminate the contract required by this section upon payment to the department of the amount which would be owed to the department if the mobilehome park or share in a stock cooperative, as the case may be, were sold at fair market value at the time of such repayment.

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 to enable prompt and effective implementation of the urgently required housing programs authorized by Chapters 1042 and 1043 of the Statutes of 1979 (as amended by Chapter 1045 of the Statutes of 1979), it is necessary that this act go into immediate effect.

## CHAPTER 1154

.An act to add Section 66451.4 to the Government Code, amend Sections 50531, 50661, 50735, 50736, 50737, 50738, 50739, 50740, 50742, 50746, 50748, 50749, 50750, 50755, 50756, 50757, 50758, 50759, 50766, 50767, 50770, 50775, 50776, 50777, and 50778 of, to amend the heading of Article 5 (commencing with Section 50770) of Chapter 9 of Part 2 of Division 31 of and to repeal Section 66451.4 of, the Health and Safety Code, to add Section 21080.10 to the Public Resources Code, and to amend Section 1 of Chapter 1017 of the Statutes of 1978, relating to governmental actions, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 26, 1980. Filed with Secretary of State September 29, 1980]

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

SECTION 1. Section 66451.4 is added to the Government Code, to read:

66451.4. (a) In addition to the notice required by Section 66451.3, whenever approval of a tentative map will constitute a substantial or significant deprivation of the property rights of other landowners, the local agency shall provide notice of the application to all persons, including businesses, corporations, or other public or private entities, shown on the last equalized assessment roll, as owning real property within 300 feet of the property which is the subject of the application.

(b) The notice shall be given by at least one of the following methods:

- (1) Direct mailing to the owners.
- (2) Posting of notice by the local agency on and off the site in the area where the project is to be located.
- (3) Delivery of notice by any means other than mail to the owners.
- (4) Any other method reasonably calculated by the local agency to provide actual notice of the hearing.

(c) Nothing contained in this section shall preclude a local agency from providing additional notice by other means, nor shall the requirements of this section preclude the local agency from providing the necessary notice at the same time and in the same manner as public notice otherwise required by law for such project.

SEC. 1.4. Section 50531 of the Health and Safety Code is amended to read:

50531. There is hereby created in the State Treasury the Urban Housing Development Loan Fund.

All money in the loan fund is hereby continuously appropriated to the department for carrying out the purposes of this chapter. The loan fund shall be a revolving loan fund which shall be used to make loans to local agencies or nonprofit corporations for assisted housing

in urban areas, for occupancy primarily by persons of low income.

All interest, dividends, and pecuniary gains from investments or deposits of moneys in the loan fund shall accrue to the loan fund notwithstanding Section 16305.7 of the Government Code.

There shall be paid into the fund the following:

(a) Any moneys appropriated and made available by the Legislature for the purposes of the fund.

(b) Any moneys which the department receives in repayment of loans made from the fund, including any interest on loans made therefrom.

(c) Any other moneys which may be made available to the department for the purposes of this chapter from any other source or sources.

SEC. 1.5. Section 50661 of the Health and Safety Code is amended to read:

50661. There is hereby created in the State Treasury the Housing Rehabilitation Loan Fund. All interest or other increment resulting from the investment of moneys in the Housing Rehabilitation Loan Fund shall be deposited in such fund, notwithstanding Section 16305.7 of the Government Code. All money in such fund is continuously appropriated to the department (a) for making deferred-payment rehabilitation loans for financing all or a portion of the cost of rehabilitating existing housing to meet rehabilitation standards as provided in this chapter; (b) for making deferred-payment loans as provided in Sections 50669 and 50670; (c) for related administrative expenses of the department; and (d) for related administrative costs of nonprofit corporations and local public entities contracting with the department pursuant to Section 50663 in an amount, if any, as determined by the department, to enable such entities and corporations to implement a program pursuant to this chapter. The department shall ensure that not less than 20 percent of the funds loaned pursuant to this chapter shall be allocated to rural areas.

SEC. 2. Section 50735 of the Health and Safety Code is amended to read:

50735. The following definitions shall apply to all activities conducted pursuant to this chapter. Except as otherwise provided in this article or unless the context otherwise requires, the definitions contained in Chapter 2 (commencing with Section 50050) of Part 1 of this division shall also apply to this chapter.

(a) "Assisted unit" means a unit which is affordable to an eligible household as a result of a payment made by the department pursuant to Article 2 (commencing with Section 50745), 3 (commencing with Section 50755), or 4 (commencing with Section 50765) or as a result of establishment of, or assistance from, an annuity trust fund or both. The department shall adopt regulations which establish a method for computing rents for eligible households.

(b) "Below-market interest financing" means any of the following:

(1) A long-term loan made by the agency with below-market interest, as defined by Section 50056.

(2) A long-term loan made by a local finance entity at a below-market interest rate no higher than that established from time to time by the department, provided such rate shall not exceed by more than 1½ percent the interest rate on long-term loans, if any, made by the agency for rental housing development proposals being submitted or processed for department assistance under this chapter at the same time.

(3) The use of subsidies, assistance, or financing, other than as provided in paragraphs (1) and (2), which reduce rent levels by an amount equivalent to that enabled by long-term loans at the interest rate established for purposes of paragraph (2).

(4) Subsidies, assistance, or financing provided to the sponsor by or through the agency or local finance entity and which is a loan made at below-market interest by an agency of the federal government.

(c) "Development costs" means the aggregate of all costs incurred in connection with construction of a rental housing development pursuant to this chapter, including (1) the cost of land acquisition, whether by purchase or lease, (2) the cost of construction, (3) the cost of overhead including architectural, legal, and accounting fees incurred in connection with the construction of the rental housing development, (4) the cost of related offsite improvements, such as sewers, utilities, and streets, and (5) the cost of necessary and related onsite improvements. The department shall adopt regulations consistent with this section specifying the expenses qualifying as development costs for which a payment may be made pursuant to Section 50745.

(d) "Eligible households" means lower income households, as defined by Section 50079.5, including very low income households, as defined by Section 50105.

(e) "Local finance entity" means a redevelopment agency, housing authority, duly constituted governing body of an Indian rancheria, city, county, or city and county, or any combination thereof, which, in connection with the program established pursuant to this chapter, provides or utilizes financing, at below-market interest or the equivalent under subdivision (b) of Section 50745, for development of rental housing developments eligible for assistance under this chapter.

(f) "Rental housing development" means a development of five or more rental or cooperative units, on one or more sites and includes a mobilehome park with five or more mobilehome spaces.

(g) "Sponsor" means any individual, joint venture, partnership, limited partnership, trust, corporation, cooperative, local public entity, duly constituted governing body of an Indian rancheria, or other legal entity, or any combination thereof, certified by the department and the agency or the department and a local finance entity as the case may be, to own and manage or construct a rental housing development assisted pursuant to this chapter. A sponsor may be organized for profit or limited profit or be nonprofit.

**SEC. 2.** Section 50736 of the Health and Safety Code is amended to read:

**50736.** (a) Not less than 30 percent of the units in each rental housing development consisting of ten or more units which receives any funds pursuant to this chapter shall be available on a priority basis to or occupied by eligible households pursuant to the agreement required by Section 50739, and not less than 20 percent of all the units in each rental housing development shall be available on a priority basis to, or occupied by, very low income households.

(b) Every sponsor shall, with respect to assisted units, conduct an affirmative marketing program, on a continuous basis, which program has been approved by the department or by the agency in cases where the agency provides financing. For the purposes of this subdivision, "affirmative marketing program" means any program approved by the department that is designed to achieve greater access to housing opportunities created by this chapter for eligible households. Such program shall include educational, promotional, and other appropriate activity designed to secure greater housing opportunities for such households. Where a significant number of persons in a community have limited fluency in the English language, publications implementing an affirmative marketing program in that community shall be provided in the native language of such persons.

(c) Of all assisted units, under this chapter, not less than two-thirds shall be allocated to very low income households and the balance for lower income households.

(d) Elderly or handicapped households shall be allocated not less than 20 percent, nor more than 30 percent, of the assisted units provided pursuant to this chapter.

(e) The department shall ensure that not less than 20 percent of all units assisted pursuant to this chapter shall be allocated to rural areas.

**SEC. 3.** Section 50737 of the Health and Safety Code is amended to read:

**50737.** The department shall adopt rules and regulations, 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, for the administration of this chapter. The rules and regulations shall give priority in the allocation of funds available for the purposes of this chapter to the following:

(a) Rental housing developments which are of the lowest possible cost, given local market conditions.

(b) Rental housing developments which incorporate innovative or energy-efficient design and construction techniques and higher densities that will result in lower costs while retaining quality.

(c) Rental housing developments which complement the implementation of a local housing program of increased housing supply for persons and families of low or moderate income.

(d) Rental housing developments for which the housing sponsor, whether public or private, has contributed or received funds, services, or land or for which Community Development Block Grant

Funds have been allocated under Title I of Federal Public Law 93-383 for eligible expenditures, including, but not limited to, rent subsidies, site acquisition, development costs, or construction costs.

(e) Rental housing developments which utilize available funds in the most efficient manner to produce the maximum number of housing units.

SEC. 3.2. Section 50737 of the Health and Safety Code is amended to read:

50737. The department shall adopt rules and regulations, 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, for the administration of this chapter. The rules and regulations shall give priority in the allocation of funds available for the purposes of this chapter to the following:

(a) Rental housing developments which are of the lowest possible cost, given local market conditions.

(b) Rental housing developments which incorporate innovative or energy-efficient design and construction techniques and higher densities that will result in lower costs while retaining quality.

(c) Rental housing developments which complement the implementation of a local housing program of increased housing supply for persons and families of low or moderate income.

(d) Rental housing developments for which the housing sponsor, whether public or private, has contributed or received funds, services, or land or for which Community Development Block Grant Funds have been allocated under Title I of Federal Public Law 93-383 for eligible expenditures, including, but not limited to, rent subsidies, site acquisition, development costs, or construction costs.

(e) Rental housing developments which utilize available funds in the most efficient manner to produce the maximum number of housing units.

(f) To the extent feasible and consistent with the other priorities contained in this section, rental housing developments which are located within existing public transit corridors as defined in Section 50093.5. However, this priority shall not apply to rental housing developments located in rural areas which are assisted pursuant to this chapter.

SEC. 3.5. Section 50738 of the Health and Safety Code is amended to read:

50738. The department may make payments pursuant to Article 2 (commencing with Section 50745), 3 (commencing with Section 50755), or 4 (commencing with Section 50765) or contract to make annuity fund payments, or both, only if such payments or trust fund assistance result in affordable rents in assisted units for eligible households. The payments may be provided as loans to be repaid and payments of principal or interest may be deferred or made payable over a period of time. The payments may also be provided to acquire rights of occupancy or leaseholds, or to write down the development costs of a rental housing development. In addition to making payments to provide assisted units for eligible households, the department may provide funds if necessary to ensure the economic

feasibility of, and to enable the construction of, rental housing developments assisted under this chapter, but no more than 10 percent of the moneys appropriated to the Rental Housing Construction Fund may be used for this purpose.

SEC. 4. Section 50739 of the Health and Safety Code is amended to read:

50739. At the time the department makes a payment pursuant to Article 2 (commencing with Section 50745), 3 (commencing with Section 50755), or 4 (commencing with Section 50765) or contracts to make annuity fund payments in connection with a rental housing development, or both, a written agreement between the department and the agency, local finance entity, or housing authority shall be executed, designating the number of units within such rental housing development available to, or occupied by, very low income households, other lower income households, and other households. If the number of units occupied by very low or other lower income households in any housing development ever falls below the number agreed to by the department and agency, local finance entity, or housing authority, then units which become available for occupancy shall be made available on a priority basis to very low or other lower income households, as required, until the number of units so occupied equals at least the number specified in the agreement.

The department and the agency or local finance entity may reduce the number of assisted units to less than 30 percent of a rental housing development only if necessary to maintain the development's fiscal integrity. Any such reduction shall be reviewed annually as to its continued necessity.

SEC. 5. Section 50740 of the Health and Safety Code is amended to read:

50740. (a) The Rental Housing Construction Incentive Fund established in the State Treasury is hereby renamed the Rental Housing Construction Fund. All money in the fund is hereby continuously appropriated to the Department of Housing and Community Development for purposes of this chapter. All interest or other increment resulting from investment or deposit of moneys in the fund shall be deposited in the fund, notwithstanding Section 16305.7 of the Government Code. Moneys in the fund shall not be subject to transfer to any other fund pursuant to any provision of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, excepting the Surplus Money Investment Fund.

(b) Not less than 40 percent of the moneys in the fund shall be used pursuant to this chapter to assist rental housing developments financed by the agency, unless the department determines that allocation of such moneys to assist rental housing developments financed or assisted by housing authorities or local finance entities would result in assisted units being provided earlier than could be provided by the agency.

SEC. 6. Section 50742 of the Health and Safety Code is amended to read:

50742. For purposes of acting as a local finance entity pursuant to this chapter, a city, county, or city and county may, pursuant to an enabling ordinance of its legislative body, issue revenue bonds to provide below-market interest financing of a rental housing development. Any city, county, or city and county may act jointly with one or more other cities, counties, or cities and counties in the exercise of powers under this section. The proceeds of local revenue bonds issued pursuant to this section shall be used solely to finance rental housing developments containing assisted units, for any and all costs of administering such finance program and for complying with mandated reserve requirements. Any interest or other increment received by a local finance entity acting under the authority of this section from the investment or reinvestment of the proceeds of such revenue bonds, any payments of principal or interest on financing provided by the local finance entity or part of such program, and any other revenues received by the local finance entity in connection with, or for purposes of, such program shall be held and applied solely for the purposes of such program.

SEC. 7. Section 50746 of the Health and Safety Code is amended to read:

50746. Each contract pursuant to Section 50745 shall be recorded or referenced in a recorded document in the office of the county recorder of the county in which the rental housing development is located, and shall be indexed by the recorder in the grantor index to the name of the sponsor and in the grantee index to the name of the State of California. The contract shall contain at least the following provisions:

(a) The amount and terms of payments to be provided under this article, including specific items to be covered by such payments.

(b) A description of the way in which the payments will be used to provide affordable rents to eligible households occupying assisted units within the rental housing development.

(c) Projected rent levels for all units, and the number of units to be occupied by eligible households.

(d) Requirements for payment of prevailing wage rates on construction.

(e) A requirement for a periodic report to be made at least annually by the agency or local finance entity which shall include, at a minimum, information on the fiscal condition of the rental housing development, the maintenance of such development, and the number of units occupied by eligible households.

(f) A provision for department approval prior to the execution of the terms of the regulatory agreement to be entered into between the sponsor and the agency or local finance entity pursuant to Section 50749.

(g) A provision that failure to operate the rental housing development in accordance with the regulatory agreement shall be deemed a violation of the regulatory agreement or deed of trust, as the case may be. In the alternative or in addition, the contract may contain a lien on the rental housing development for the purpose of securing performance of the agreement. Such lien shall include a

legal description of the assisted real property which is subject to the lien and shall specify the duration of the lien upon the assisted real property.

(h) Standards which govern selection of tenants by housing sponsors to ensure occupancy by eligible households consistent with the requirements of Sections 50736 and 50739 and the terms of occupancy agreements to be used in rental housing developments.

(i) Provisions sufficient to ensure that dwelling units in the rental housing development available to and occupied by eligible households in accordance with Section 50736 and in accordance with the written agreement required by Section 50739 remain available to such households for a period of not less than 30 years or the duration of the long-term financing, whichever is greater.

(j) Provisions which specify the timing and manner in which payments are made by the department so as to ensure the economic feasibility of the rental housing development and to protect the interests of the state.

(k) A provision making the covenants and conditions of the contract binding upon successors in interest of the sponsor.

(l) When the sponsor is not a nonprofit housing sponsor or a local public entity, a provision limiting distribution of the sponsor's earnings to an annual amount no greater than 6 percent of the sponsor's actual investment (excluding unaccrued liabilities of the sponsor) in the rental housing development. The department may allow an earnings distribution of no greater than 10 percent on a nonelderly rental housing development if the department finds it necessary to do so to fulfill the requirements of Section 50736. With respect to such nonelderly rental housing developments, the department may adopt regulations consistent with this section governing the conditions under which an earnings distribution over 6 percent but not to exceed 10 percent may be allowed.

(m) A provision which specifies the conditions under which the department and agency may enforce the regulatory agreement with respect to a rental housing development financed by the agency.

(n) Provisions necessary for the administration, disbursement, and protection of annuity fund payments including provisions specifying the conditions under which the department may recover or reallocate all or any part of such payments for the benefit of eligible households in existing or additional assisted units.

(o) Provisions (1) governing the recovery and reallocation by the department of rent revenues derived by the sponsor from the assisted units and which are not necessary to defray costs of operation attributable to such units and (2) specifying the return on the sponsor's investment pursuant to subdivision (b). Such rent revenue shall be handled by the department in the same manner as annuity payments recovered pursuant to subdivision (n).

(p) Authorization for the agency or local finance entity to fix and alter rents pursuant to the provisions of subdivision (c) of Section 50749.

(q) Any other provisions necessary to carry out the purposes and to exercise the powers granted by this chapter.

SEC. 7.5. Section 50748 of the Health and Safety Code is amended to read:

50748. (a) The department may establish and administer an annuity fund, with respect to rental housing developments assisted under this article or Article 3 (commencing with Section 50755) or Article 4 (commencing with Section 50765) for the purpose of reducing rent levels to ensure occupancy by eligible households pursuant to Sections 50736 and 50739. The annuity funds shall be structured so that the principal and interest accumulated thereon is not depleted prior to the expiration of the agreements or contracts required by Section 50749.

(b) Payments made by the department pursuant to this section shall not constitute a subsidy under subdivision (b) of Section 50745.

(c) The department shall require annual reports on the use of annuity funds and such audits as may be required to ensure the proper use of moneys from the annuity fund. The department shall review all complaints received concerning such trust funds and shall have all powers necessary to assure the lawful application of such funds.

(d) When the amount of moneys made payable from an annuity fund pursuant to this section exceeds the amount necessary to ensure that eligible households in a rental housing development assisted under this chapter are paying affordable rents, or if payments from the annuity fund become unnecessary for such purpose, the department may by contract (1) require that such unneeded moneys be paid into the Rental Housing Construction Incentive Fund or (2) authorize use of such moneys to reduce rents to an affordable level for additional eligible households in the rental development.

(e) Not less than 20 percent of the moneys appropriated for the purposes of this chapter shall be utilized pursuant to this section. However, moneys transferred to the Rental Housing Construction Fund pursuant to subdivision (d) shall be used for any purpose authorized by this chapter.

SEC. 8. Section 50749 of the Health and Safety Code is amended to read:

50749. Any rental housing development assisted pursuant to this article shall be governed by a regulatory agreement between the sponsor and the agency or local finance entity. Such regulatory agreements shall be recorded or referenced in a recorded document in the office of the county recorder for the county in which the rental housing development is located. The regulatory agreements shall contain at least all of the following:

(a) Restrictions on occupancy of dwelling units within the rental housing development, as necessary to meet the requirements of Sections 50736 and 50739.

(b) A requirement that prevailing wage rates be paid with respect to construction of the rental housing development, and that all contractors and subcontractors use affirmative action in hiring.

(c) The authorization for the agency or local finance entity to fix and alter, from time to time, a schedule of rents such as may be necessary to provide residents of the rental housing development

with affordable rents, to the extent consistent with the maintenance of the financial integrity of the rental housing development.

With respect to rental housing developments financed by the agency, no housing sponsor may increase rents except in accordance with the provisions of Section 51200. With respect to units under the supervision of a local finance entity, no housing sponsor shall increase the rent without the prior permission of such entity which shall be given only if the sponsor affirmatively demonstrates that such increase is required to defray necessary operating costs or to avoid jeopardizing the fiscal integrity of the rental housing development. Prior to the time any rent increase is effective, the housing sponsor shall notify every affected tenant, in writing, of informal meetings with the housing sponsor to review the proposed rent increase. Each tenant, upon request, shall be provided the information submitted to the local housing finance entity pursuant to this subdivision.

Notwithstanding Section 51200 with respect to rental housing developments assisted under this article, if the agency or local finance entity does not act upon a request for a rent increase within 60 days from documented receipt of the request, such increase shall be deemed approved.

Thirty days' notice of any rent increase shall be given in writing.

(d) Provisions implementing standards governing selection of tenants by sponsors to ensure initial and continued occupancy by eligible households consistent with the requirements of Sections 50736 and 50739.

(e) Provisions implementing the terms of occupancy agreements.

(f) Provisions necessary for the administration and protection of annuity trust funds established pursuant to Section 50748 and for recovery and reallocation of annuity fund payments and rent revenues pursuant to subdivisions (n) and (o) of Section 50746.

(g) Any other provisions necessary to carry out the purposes and to exercise the powers granted by this chapter.

The regulatory agreement shall remain in effect so long as any financing for the rental housing development provided by the agency or local finance entity remains outstanding, but in any event not less than 30 years. The regulatory agreement shall be enforceable as specified in subdivision (m) of Section 50746 by the department, the agency or local finance entity or by any intended beneficiary of housing assisted under this chapter as against the sponsor or any successor in interest of the sponsor.

SEC. 9. Section 50750 of the Health and Safety Code is amended to read:

50750. Upon consent of the legislative body of the city or county in which a rental housing development is or will be located, the department may contract with a local finance entity located in a rural area to ensure that the terms of the agreement between such entity and a sponsor entered into pursuant to Section 50749 are carried out.

SEC. 10. Section 50755 of the Health and Safety Code is amended to read:

50755. The department may contract with local housing authorities. Funds provided pursuant to such contracts shall be used by such agencies to obtain a right of occupancy or leasehold for eligible households in some or all of the units in a rental housing development. In order to maximize the number of units for which a right of occupancy or leasehold is obtained, the payment made by the local housing authority in obtaining such right or leasehold shall not exceed the costs of developing the unit. The local housing authority may be authorized by the department to pay the entire amount of the development costs as soon as the unit is available for occupancy.

Any contract executed pursuant to this article which provides for a right of occupancy or leasehold in favor of a local housing authority shall be recorded or referenced in a recorded document in the office of the county recorder of the county in which such real property is located. Such contract shall particularly describe the real property subject to such right of occupancy or leasehold, designate the specific rental units or proportion of the rental housing development subject to such right of occupancy or leasehold, and specify the period for which such right of occupancy or leasehold extends.

SEC. 10.5. Section 50756 of the Health and Safety Code is amended to read:

50756. Each contract pursuant to Section 50755 shall be recorded or referenced in a recorded document in the office of the county recorder of the county in which the rental housing development is located, and shall be indexed by the recorder in the grantor index to the name of the sponsor and in the grantee index to the name of the State of California. The contract shall contain the following provisions:

(a) The amount and terms of payments to be provided under this article.

(b) A description of the way in which the payments will be used to provide affordable rents to eligible households occupying dwelling units within the rental housing development.

(c) A description of the rental housing development, projected rent levels for all units, and the number of units to be occupied by eligible households.

(d) A requirement for periodic reports by the local housing authority, which shall at a minimum include information on the fiscal condition of the rental housing development, the maintenance of such development, and the number of units occupied by eligible households.

(e) The terms of the regulatory agreement to be entered into between the sponsor and the local housing authority pursuant to Section 50757 after the department's approval.

(f) Standards which govern selection of tenants by housing sponsors to ensure occupancy by eligible households consistent with the requirements of Sections 50736 and 50739 and the terms of occupancy agreements to be used in rental housing developments.

(g) Provisions sufficient to ensure that dwelling units shall be available to or occupied by eligible households for a period of not less than 30 years.

(h) Provisions which specify the timing and manner in which payments are made by the department so as to ensure the economic feasibility of the rental housing development and to protect the interests of the state.

(i) A provision which specifies the conditions under which the department and any intended beneficiary may enforce the regulatory agreement.

(j) A provision that failure to operate the assisted units in accordance with the regulatory agreement shall be deemed a violation of the regulatory agreement or deed of trust, as the case may be. In the alternative, or in addition, the agreement may contain a lien on the rental housing development for the purpose of securing performance of the agreement. Such lien shall include a legal description of the assisted real property which is subject to the lien and shall specify the duration of the lien on the assisted property.

(k) Provisions necessary for the administration, disbursement, and protection of annuity fund payments including provisions specifying the conditions under which the department may recover or reallocate all or any part of such payments for the benefit of eligible households in additional or existing assisted units.

(l) Provisions (1) governing the recovery and reallocation by the department of rent revenues, derived by the sponsor from the assisted units which are not necessary to defray costs of operation attributable to such units, and (2) specifying the allowable return on the sponsor's investment. Such rent revenues shall be handled by the department in the same manner as annuity payments recovered pursuant to subdivision (k).

(m) Authorization for the local housing authority to fix and alter rents pursuant to the provisions of subdivision (a) of Section 50759.

(n) Any other provisions necessary to carry out the purposes and to exercise the powers granted by this chapter.

SEC. 11. Section 50757 of the Health and Safety Code is amended to read:

50757. Any rental housing development assisted pursuant to this article shall be governed by a regulatory agreement between the sponsor and the local housing authority. The regulatory agreements shall contain all of the following:

(a) Restrictions on occupancy of the dwelling units within the rental housing development, as necessary to meet the requirements of Sections 50736 and 50739.

(b) A requirement that all contractors and subcontractors use affirmative action in hiring.

(c) Provisions implementing the terms of tenant selection standards and occupancy agreements.

(d) Provisions necessary for the administration and protection of annuity funds established pursuant to Section 50748 and for recapture and reallocation of annuity fund payments and rent revenues pursuant to subdivisions (k) and (l) of Section 50756.

(e) Any other provisions necessary to carry out the purposes and to exercise the powers granted by this chapter.

SEC. 11.2. Section 50758 of the Health and Safety Code is amended to read:

50758. With respect to units for which a local housing authority has obtained a leasehold or right of occupancy, the local housing authority may manage such units or may contract for management of such units with the housing sponsor or other persons designated by the local housing authority, with the approval of the department.

SEC. 11.5. Section 50759 of the Health and Safety Code is amended to read:

50759. With respect to housing units developed pursuant to this article, the local housing authority shall do the following:

(a) Fix and alter from time to time a schedule of rents as may be necessary to permit occupancy of such units by eligible households. The rents on such units shall not exceed the costs of maintenance, management and operation, property taxes, and where applicable, utilities. No housing sponsor shall increase the rent without the prior permission of the housing authority which shall be given only if the sponsor affirmatively demonstrates that such increase is required to defray necessary operating costs or to avoid jeopardizing the fiscal integrity of the rental housing development.

Prior to the time any rent increase is effective the housing sponsor or housing authority shall notify every affected tenant, in writing, of, informal meetings with the housing sponsor or housing authority to review the proposed rent increase. Each tenant, upon request, shall be provided the information submitted to the local housing authority pursuant to this subdivision. In the event that the local housing authority does not act upon a request for a rent increase within 60 days from documented receipt of the request, such increase shall be deemed approved. Thirty days' notice of any rent increase shall be given in writing.

(b) Determine standards for, and ensure fair procedures for the selection of tenants by housing sponsors or other management designated pursuant to Section 50758 to ensure occupancy by eligible households consistent with the requirements of Sections 50736 and 50739.

(c) Regulate the terms of tenant occupancy agreements.

SEC. 11.7. Section 50766 of the Health and Safety Code is amended to read:

50766. Each contract pursuant to Section 50765 shall contain at least the following provisions:

(a) The timing, amount, and terms of payments to be provided under this article, including specific items to be covered by such payments.

(b) A description of the way in which the payments will be used to provide affordable rents to eligible households occupying dwelling units within the rental housing development.

(c) A description of the rental housing development, projected rent levels for all units and the number of units to be occupied by eligible households.

(d) Restrictions on occupancy of dwelling units within the rental housing development, as necessary to meet the requirements of Sections 50736 and 50739.

(e) A requirement that prevailing wage rates be paid with respect to construction of the rental housing development, and that all contractors and subcontractors use affirmative action in hiring.

(f) A requirement for periodic reports by the housing authority, which shall at a minimum include information on the fiscal condition of the rental housing development, the maintenance of such development, and the number of units occupied by eligible households.

(g) Provisions sufficient to ensure that assisted units shall be available to or occupied by eligible households for a period of not less than 30 years.

(h) A provision which specifies the conditions under which the department and any intended beneficiary may enforce the contract.

(i) A provision that failure to operate the assisted units in accordance with the regulatory agreement shall be deemed a violation of the regulatory agreement or deed of trust, as the case may be. In the alternative, or in addition, the contract may contain a lien on the rental housing development for the purpose of securing performance of the contract. Such lien shall include a legal description of the assisted real property which is subject to the lien and shall specify the duration of the lien on the assisted property.

(j) Provisions necessary for the administration, disbursement, and protection of annuity fund payments including provisions specifying the conditions under which the department may recover or reallocate all or any part of such payments for the benefit of eligible households in additional or existing assisted units.

(k) Provisions governing the recovery and reallocation by the department of rent revenues derived by the sponsor from the assisted units, which are not necessary to defray the costs of operation attributable to such units. Such revenues shall be handled by the department in the same manner as annuity payments recovered pursuant to subdivision (j).

(l) Authorization for the local housing authority to fix and alter rents pursuant to the provisions of subdivision (a) of Section 50767.

(m) Any other provisions necessary to carry out the purposes and exercise the powers granted by this chapter.

Any contract pursuant to Section 50765 containing a lien shall be recorded or referenced in a document recorded in the county in which the real property subject to the lien is located and shall be indexed by the recorder in the grantor index to the name of the local housing authority and in the grantee index to the name of the State of California.

SEC. 11.9. Section 50767 of the Health and Safety Code is amended to read:

50767. With respect to rental housing developments developed and constructed pursuant to this article, the local housing authority shall, with the approval of the department:

(a) Fix and alter from time to time a schedule of rents as may be necessary to permit occupancy of such units by eligible households. The rents on such units shall not exceed the costs of maintenance, operation, property taxes, and where applicable, utilities. No housing authority shall increase the rent without the prior permission of the department which shall be given only if the authority affirmatively demonstrates that such increase is required to defray necessary operating costs or to avoid jeopardizing the fiscal integrity of the rental housing development.

Prior to the time any rent increase is effective the housing authority shall notify every affected tenant, in writing, of, informal meetings with the housing authority to review the proposed rent increase. Each tenant, upon request, shall be provided the information submitted to the department pursuant to this subdivision.

Thirty days' notice of any rent increase shall be given in writing.

(b) Regulate the terms of tenant occupancy agreements.

SEC. 12. The heading of Article 5 (commencing with Section 50770) of Chapter 9 of Part 2 of Division 31 of the Health and Safety Code is amended to read:

#### Article 5. Reserve Account

SEC. 13. Section 50770 of the Health and Safety Code is amended to read:

50770. Four percent of the funds appropriated for the purposes of this chapter shall be set aside in a Management Reserve Account in the Rental Housing Construction Fund, which is hereby created. All interest or other increment resulting from investment or deposit of moneys in such account shall be deposited in the account.

The department may expend moneys in such account to defray cost increases in maintenance, taxes, utility, or management costs, or charges for common areas and service so that, to the extent feasible, the rental charges to eligible households remain affordable. The department may provide assistance from the fund to a rental housing development if the agency or local finance entity affirmatively demonstrates that assistance is necessary to avoid jeopardizing the fiscal integrity of the rental housing development while maintaining affordable rents and if the department determines that assistance is necessary to offset unavoidable increases in costs.

SEC. 14. Section 50775 of the Health and Safety Code is amended to read:

50775. (a) The department may provide financial assistance, in accordance with this chapter, to households residing in rental housing, or a mobilehome park in which such households rent spaces, which is to be converted to condominium ownership or ownership by a stock cooperative corporation, as defined in Section 11003.2 of the Business and Professions Code, for the purpose of assisting such households in acquiring a dwelling unit or a share in the stock cooperative corporation which entitles such households to occupancy of a dwelling unit.

(b) The department may also provide financial assistance for the purpose of assisting households to purchase a mobilehome, as defined in Section 18008, which is located outside a mobilehome park, as defined in Section 18214, and which is affixed to a permanent foundation system.

(c) The financial assistance provided pursuant to subdivision (a) or (b) shall not exceed 49 percent of the purchase price paid by the household for the dwelling unit, mobilehome, or share in the stock cooperative, and in no event shall such assistance be used to reduce the purchaser's downpayment below 3 percent of the total purchase price.

(d) The department may establish maximum purchase prices for such units, mobilehomes, or shares.

(e) Eligibility for such financial assistance shall be limited to households (1) which have incomes no greater than the median for the county, (2) which do not currently own residential property and have not owned any residential property, other than a mobilehome not affixed to a permanent foundation, for at least three years, (3) which have not previously received any assistance pursuant to this chapter and (4) which, without financial assistance pursuant to this section, would be unable to acquire a dwelling unit, mobilehome, or a share in a stock cooperative.

(f) As used in this section and Section 50776, "dwelling unit" means the dwelling unit that such household occupies, or another dwelling unit not being purchased by its existing tenant within the same rental housing development or mobilehome park. "Dwelling unit" includes a space in a mobilehome park, as defined in Section 18214, and may include a mobilehome rented with the space.

SEC. 15. Section 50776 of the Health and Safety Code is amended to read:

50776. (a) Financial assistance pursuant to Section 50775 may be provided directly by the department or through a governmental agency or mortgage lender certified by the department to participate in the program authorized by Section 50775. Such a mortgage lender may be a bank or trust company, mortgage banker, federal or state chartered savings and loan association, or other financial institution, including credit unions, deemed capable by the department, pursuant to regulations adopted 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, of providing services or mortgage loans in conjunction with dwelling units, mobilehomes, or shares in stock cooperatives for which such financial assistance is provided.

(b) The department, governmental agency, or mortgage lender shall enter into a contract with each recipient of financial assistance under Section 50775, requiring the recipient, upon sale or transfer of the dwelling unit, mobilehome, or share for which the assistance was provided, to pay to the department an amount proportionate to the percentage of the initial purchase price which was paid with financial assistance provided under Section 50775. Such a contract may provide that the department shall not receive less than the

amount of assistance provided under Section 50775. However, if the recipient has made improvements to the dwelling unit or mobilehome, as the case may be, the cost of such improvements shall be added to the purchase price in determining relative financial participation for purposes of calculating the amount to be paid the department. Improvements which may be added to the purchase price for this purpose shall be defined by regulations of the department, adopted 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, and shall be limited to substantial repairs, renovations, or additions undertaken with respect to the dwelling unit or mobilehome assisted, which increase the value of the dwelling unit or mobilehome, or which bring such dwelling unit or mobilehome into conformance with local or state building or housing standards.

(c) Any contract pursuant to this section may permit the recipient of financial assistance to terminate the contract upon payment to the department of the amount which would be owed the department if the dwelling unit, mobilehome or share were sold at fair market value at the time of such repayment. Such contracts, subject to regulations adopted by the department, may also permit partial repayments prior to sale or transfer.

(d) Contracts pursuant to this section shall require payment of the full amount of property taxes, insurance, and costs of normal maintenance by the household receiving assistance pursuant to Section 50775, and compliance with restrictions on occupancy, including owner-occupancy, as required by the department. Every contract required by this section shall be secured by a deed of trust, security, or other interest determined adequate by the department to protect the interests of the state. Such deeds of trust, security, or other instruments shall be recorded in the office of the county recorder of the county in which the dwelling unit is located.

(e) The contract shall require the recipient of financial assistance to comply with all terms and conditions of, and to make all payments required by, any instrument secured by the dwelling unit.

SEC. 15.5. Section 50776 of the Health and Safety Code, as amended by Assembly Bill 2780, is amended to read:

50776. (a) Financial assistance pursuant to Section 50775 may be provided directly by the department or through a governmental agency or mortgage lender certified by the department to participate in the program authorized by Section 50775. Such a mortgage lender may be a bank or trust company, mortgage banker, federal or state chartered savings and loan association, or other financial institution, including credit unions, deemed capable by the department, pursuant to regulations adopted 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, of providing services or mortgage loans in conjunction with dwelling units, mobilehomes, or shares in stock cooperatives for which such financial assistance is provided.

(b) The department, governmental agency, or mortgage lender shall enter into a contract with each recipient of financial assistance under Section 50775, requiring the recipient, upon sale or transfer of the dwelling unit, mobilehome, or share for which the assistance was provided, to pay to the department an amount proportionate to the percentage of the initial purchase price which was paid with financial assistance provided under Section 50775. Such a contract may provide that the departmental shall not receive less than the amount of assistance provided under Section 50775. However, if the recipient has made improvements to the dwelling unit or mobilehome, as the case may be, the increase in the fair market value of the unit or mobilehome arising from the improvement shall be added to the fair market value of the recipient's share in such unit or mobilehome immediately before such improvements are made, to determine the recipient's relative financial participation for the purpose of calculating the amount to be paid the department. Improvements which may be added to the purchase price for this purpose shall be defined by regulations of the department, adopted in accordance with the provisions of Chapter 3.5 (commencing with Section 11430) of Part 1 of Division 3 of Title 2 of the Government Code, and shall be limited to substantial repairs, renovations, or additions undertaken with respect to the dwelling unit or mobilehome assisted, which increase the value of the dwelling unit or mobilehome, or which bring such dwelling unit or mobilehome into conformance with local or state building or housing standards.

(c) Any contract pursuant to this section may permit the recipient of financial assistance to terminate the contract upon payment to the department of the amount which would be owed the department if the dwelling unit, mobilehome or share were sold at fair market value at the time of such repayment. Such contracts, subject to regulations adopted by the department, may also permit partial repayments prior to sale or transfer.

(d) Contracts pursuant to this section shall require payment of the full amount of property taxes, insurance, and costs of normal maintenance by the household receiving assistance pursuant to Section 50775, and compliance with restrictions on occupancy, including owner-occupancy, as required by the department. Every contract required by this section shall be secured by a deed of trust, security, or other interest determined adequate by the department to protect the interests of the state. Such deeds of trust, security, or other instruments shall be recorded in the office of the county recorder of the county in which the dwelling unit is located.

(e) The contract shall require the recipient of financial assistance to comply with all terms and conditions of, and to make all payments required by, any instrument secured by the dwelling unit.

SEC. 16. Section 50777 of the Health and Safety Code is amended to read:

50777. (a) The department, directly or through a governmental agency or mortgage lender, and subject to the provisions of subdivision (a) of Section 50776, may provide financial assistance to nonprofit corporations and stock cooperative corporations to enable

such corporations to develop or purchase a mobilehome park, ownership of which will be transferred within a reasonable time to shareholders or owners who are persons and families of low or moderate income. Such financial assistance shall not exceed 49 percent of the purchase price or development costs of the mobilehome park which may be directly attributed to the number or ratio of persons or families with incomes, not in excess of the median income of the county, who will occupy the park. Assistance pursuant to this subdivision shall not render a person or household ineligible for assistance pursuant to subdivision (b).

(b) The department, directly or through a governmental agency or mortgage lender, and subject to the provisions of subdivision (a) of Section 50776, may provide financial assistance to persons or families with incomes not in excess of the median income for the county in which the mobilehome park is located to enable such persons or families to purchase a share in a stock cooperative corporation which owns a mobilehome park. In order to be eligible for assistance pursuant to this section, such persons and families in addition shall be limited to households (1) which do not currently own residential property and have not owned any residential property, other than a mobilehome not affixed to a permanent foundation, for at least three years, (2) which have not previously received any assistance pursuant to this chapter and (3) which, without financial assistance pursuant to this section, would be unable to acquire a dwelling unit, mobilehome, or a share in a stock cooperative. Such assistance shall not exceed 49 percent of the purchase price paid by the household for the share in the stock cooperative. The department may establish a maximum purchase price for such shares. Upon sale or transfer of a share, the purchase of which is assisted pursuant to this section, the shareholder shall pay to the department an amount proportionate to the percentage of the initial purchase price which was paid with financial assistance provided by the department pursuant to this section, as adjusted for improvements made by the corporation or shareholder. The contract for assistance may require that the department not receive in repayment less than the amount of assistance originally provided. The adjustment for improvements shall be made as set forth in Section 50776.

(c) In no event shall the assistance provided pursuant to subdivision (a) or (b) be used to reduce the purchaser's downpayment below 3 percent of the total purchase price.

(d) Upon sale or transfer of a mobilehome park assisted pursuant to this section, the corporation which owns such park shall pay to the department an amount proportionate to the percentage of the initial purchase price or development cost which was paid by the department pursuant to this section, as adjusted for improvements made by the corporation. The contract for assistance may require that the department not receive in repayment less than the amount of assistance originally provided. For such purpose "improvements" shall be defined by regulations of the department, adopted 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, and shall be limited to substantial repairs, renovations or additions which increase the value of the mobilehome park or of the shares of the corporation or which bring such mobilehome parks or mobilehomes within mobilehome parks assisted pursuant to this section into conformance with local or state building or housing standards.

(e) Such financial assistance shall be provided pursuant to a contract which requires, among other things, restrictions on occupancy, including owner occupancy, maintenance and payment of the full amount of taxes and insurance by the shareholders. Every contract required by this section shall be secured by a deed of trust, security, or other interest determined adequate by the department to protect the interests of the state. Such deeds of trust, security, or other instruments shall be recorded in the office of the county recorder of the county in which such mobilehome park is located.

(f) Any contract pursuant to this section may permit the recipient of financial assistance to terminate the contract required by this section upon payment to the department of the amount which would be owed to the department if the mobilehome park or share in a stock cooperative, as the case may be, were sold at fair market value at the time of such repayment. Such contracts, subject to regulations adopted by the department, may also permit partial repayments prior to sale or transfer.

(g) Contracts pursuant to this section shall also require that the recipient comply with all terms and conditions of, and make all payments required by, any instrument secured by the park or shares in the stock cooperative or limited equity housing cooperative.

SEC. 16.5. Section 50777 of the Health and Safety Code, as amended by Assembly Bill 2780, is amended to read:

50777. (a) The department, directly or through a government agency or mortgage lender, and subject to the provisions of subdivision (a) of Section 50776, may provide financial assistance to nonprofit corporations and stock cooperative corporations to enable such corporations to develop or purchase a mobilehome park, ownership of which will be transferred within a reasonable time to shareholders or owners who are persons and families of low or moderate income. Such financial assistance shall not exceed 49 percent of the purchase price or development costs of the mobilehome park which may be directly attributed to the number or ratio of persons or families with incomes, not in excess of the median income of the county, who will occupy the park. Assistance pursuant to this subdivision shall not render a person or household ineligible for assistance pursuant to subdivision (b).

(b) The department, directly or through a governmental agency or mortgage lender, and subject to the provisions of subdivision (a) of Section 50776, may provide financial assistance to persons or families with incomes not in excess of the median income for the county in which the mobilehome park is located to enable such persons or families to purchase a share in a stock cooperative corporation which owns a mobilehome park. In order to be eligible

for assistance pursuant to this section, such persons and families in addition shall be limited to households (1) which do not currently own residential property and have not owned any residential property, other than a mobilehome not affixed to a permanent foundation, for at least three years, (2) which have not previously received any assistance pursuant to this chapter and (3) which, without financial assistance pursuant to this section, would be unable to acquire a dwelling unit, mobilehome, or a share in a stock cooperative. Such assistance shall not exceed 49 percent of the purchase price paid by the household for the share in the stock cooperative. The department may establish a maximum purchase price for such shares. Upon sale or transfer of a share the purchase of which is assisted pursuant to this section, the shareholder shall pay to the department an amount proportionate to the percentage of the initial purchase price which was paid with financial assistance provided by the department pursuant to this section, as adjusted for improvements made by the corporation or shareholder. The contract for assistance may require that the department not receive in repayment less than the amount of assistance originally provided. The adjustment for improvements shall be made as set forth in Section 50776.

(c) In no event shall the assistance provided pursuant to subdivision (a) or (b) be used to reduce the purchaser's downpayment below 3 percent of the total purchase price.

(d) Upon sale or transfer of a mobilehome park assisted pursuant to this section, the corporation which owns such park shall pay to the department an amount proportionate to the percentage of the initial purchase price or development cost which was paid by the department pursuant to this section, as adjusted for improvements made by the corporation. The contract for assistance may require that the department not receive in repayment less than the amount of assistance originally provided. The adjustment for improvements shall be made as set forth in Section 50776. For such purpose "improvements" shall be defined by regulations of the department, adopted 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, and shall be limited to substantial repairs, renovations or additions which increase the value of the mobilehome park or of the shares of the corporation or which bring such mobilehome parks or mobilehomes within mobilehome parks assisted pursuant to this section into conformance with local or state building or housing standards.

(e) Such financial assistance shall be provided pursuant to a contract which requires, among other things, restrictions on occupancy, including owner occupancy maintenance and payment of the full amount of taxes and insurance by the shareholders. Every contract required by this section shall be secured by a deed of trust, security, or other interest determined adequate by the department to protect the interests of the state. Such deeds of trust, security, or other instruments shall be recorded in the office of the county recorder of the county in which such mobilehome park is located.

(f) Any contract pursuant to this section may permit the recipient of financial assistance to terminate the contract required by this section upon payment to the department of the amount which would be owed to the department if the mobilehome park or share in a stock cooperative, as the case may be, were sold at fair market value at the time of such repayment. Such contracts, subject to regulations adopted by the department, may also permit partial repayments prior to sale or transfer.

(g) Contracts pursuant to this section shall also require that the recipient comply with all terms and conditions of, and make all payments required by, any instrument secured by the park or shares in the stock cooperative or limited equity housing cooperative.

SEC. 17. Section 50778 of the Health and Safety Code is amended to read:

50778. The Homeownership Assistance Fund is hereby created in the State Treasury and is continually appropriated to the department for purposes of this chapter. Any moneys received by the department pursuant to this chapter shall be deposited in such fund. All interest or other increment resulting from investment or deposit of moneys in the fund shall be deposited in the fund, notwithstanding Section 16305.7 of the Government Code. Moneys in the fund shall not be subject to transfer to any other fund pursuant to any provisions of Part 2 (commencing with Section 16300) of Division 4 of Title 2 of the Government Code, excepting the Surplus Money Investment Fund.

Not less than 50 percent of the moneys in the fund shall be used to assist lower income households. Not less than 20 percent of the units assisted shall be in rural areas.

Funds available for the purpose of this chapter shall be allocated by the department throughout the state in accordance with identified housing needs.

SEC. 17.4. Section 66451.4 of the Health and Safety Code as set forth in Section 2 of Assembly Bill 3439 of the 1979-80 Regular Session is repealed.

SEC. 17.5. Section 21080.10 is added to the Public Resources Code, to read:

21080.10. This division shall not apply to the following:

(a) An extension of time, granted pursuant to Section 65302.6 of the Government Code, for the preparation and adoption of one or more elements of a city or county general plan.

(b) Actions taken by the Department of Housing and Community Development to provide financial assistance for the development and construction of residential housing for persons and families of low or moderate income, as defined in Section 50093 of the Health and Safety Code; provided, that the project which is the subject of the application for financial assistance will be reviewed pursuant to the provisions of this division by another agency.

SEC. 17.6. Section 1 of Chapter 1017 of the Statutes of 1978 is amended to read:

Sec. 1. The Department of General Services with the approval of the State Public Works Board shall convey to the City of Commerce,

for an amount equal to the current market value for the residential uses specified in this section, approximately 25 acres of land fronting on Eastern Avenue occupied by the Great Western Exhibit Center which is the property of the 48th Agricultural Association in Commerce, California.

The property shall be conveyed for the purpose of construction of residential development to provide an expanded supply of low and moderately priced housing. Such housing shall include but not be limited to low-income senior citizen housing and family housing units.

The changes in this section made by amendments enacted during the 1980 portion of the 1979-80 Regular Session do not constitute a change in, but are declaratory of, the existing law.

SEC. 18. The unencumbered balance of the appropriation made by subdivision (c) of Section 17 of Chapter 1043 of the Statutes of 1979 is hereby reappropriated for transfer to the Housing Rehabilitation Loan Fund, as established by Section 50661 of the Health and Safety Code.

SEC. 19. It is the intent of the Legislature, if this bill and Senate Bill 1721 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 50737 of the Health and Safety Code, and this bill is chaptered after Senate Bill 1721, that Section 50737 of the Health and Safety Code, as amended by Section 3 of this act, shall remain operative until the effective date of Senate Bill 1721, and that on the effective date of Senate Bill 1721 Section 50737 of the Health and Safety Code, as amended by Section 3 of this act, be further amended in the form set forth in Section 3.2 of this act to incorporate the changes in Section 50737 proposed by Senate Bill 1721. Therefore, if this bill and Senate Bill 1721 are both chaptered and become effective on or before January 1, 1981, and Senate Bill 1721 is chaptered before this bill and amends Section 50737, Section 3.2 of this act shall become operative on the effective date of Senate Bill 1721.

SEC. 20. It is the intent of the Legislature, if this bill and Assembly Bill 2780 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 50776 of the Health and Safety Code, and this bill is chaptered after Assembly Bill 2780, that Section 50776 of the Health and Safety Code, as amended by Section 15 of Assembly Bill 2780, be further amended on the effective date of this act in the form set forth in Section 15.5 of this act to incorporate the changes in Section 50776 proposed by this bill. Therefore, if this bill and Assembly Bill 2780 are both chaptered and become effective on or before January 1, 1981, and Assembly Bill 2780 is chaptered before this bill and amends Section 50776, Section 15.5 of this act shall become operative on the effective date of this act and Section 15 of this act shall not become operative.

SEC. 21. It is the intent of the Legislature, if this bill and Assembly Bill 2780 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 50777 of the Health and Safety Code, and this bill is chaptered after Assembly Bill 2780, that Section 50777 of the Health and Safety Code, as amended by

Section 16 of Assembly Bill 2780, be further amended on the effective date of this act in the form set forth in Section 16.5 of this act to incorporate the changes in Section 50777 proposed by this bill. Therefore, if this bill and Assembly Bill 2780 are both chaptered and become effective on or before January 1, 1981, and Assembly Bill 2780 is chaptered before this bill and amends Section 50777, Section 16.5 of this act shall become operative on the effective date of this act and Section 16 of this act shall not become operative.

SEC. 22. 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 enable prompt and effective implementation of the urgently required housing programs authorized by Chapter 1017 of the Statutes of 1978 and the Legislature and to clarify a provision in a bill previously passed by the Legislature it is necessary that this act go into immediate effect.

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## CHAPTER 1155

An act to amend Sections 1301, 5211, 5220, 5221, 5233, 5310, 5513, 5521, 5522, 6018, 6322, 6611, 7211, 7220, 7221, 7310, 7313, 7512, 7513, 7521, 7522, 8018, 8322, 8610, 8611, 9151, 9913, 9917, 9920, and 10200 of, and to add Sections 5516 and 8019 to, the Corporations Code, to amend Sections 39363.5, 92204, 92206, 92207, and 92210 of, and to repeal Sections 92205 and 92208 of, the Education Code, to amend Sections 31004 and 31037 of the Financial Code, and to amend Section 11496 of the Insurance Code, relating to entities.

[Approved by Governor September 27, 1980 Filed with  
Secretary of State September 29, 1980 ]

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

SECTION 1. Section 1301 of the Corporations Code, as amended by Chapter 501 of the Statutes of 1980, is amended to read:

1301. (a) If, in the case of a reorganization, any shareholders of a corporation have a right under Section 1300, subject to compliance with paragraphs (3) and (4) of subdivision (b) thereof, to require the corporation to purchase their shares for cash, such corporation shall mail to each such shareholder a notice of the approval of the reorganization by its outstanding shares (Section 152) within 10 days after the date of such approval, accompanied by a copy of Sections 1300, 1302, 1303, 1304 and this section, a statement of the price determined by the corporation to represent the fair market value of the dissenting shares, and a brief description of the procedure to be followed if the shareholder desires to exercise the shareholder's right under such sections. The statement of price constitutes an offer by the corporation to purchase at the price stated any dissenting shares

as defined in subdivision (b) of Section 1300, unless they lose their status as dissenting shares under Section 1309.

(b) Any shareholder who has a right to require the corporation to purchase the shareholder's shares for cash under Section 1300, subject to compliance with paragraphs (3) and (4) of subdivision (b) thereof, and who desires the corporation to purchase such shares shall make written demand upon the corporation for the purchase of such shares and payment to the shareholder in cash of their fair market value. The demand is not effective for any purpose unless it is received by the corporation or any transfer agent thereof (1) in the case of shares described in clause (i) or (ii) of paragraph (1) of subdivision (b) of Section 1300 (without regard to the provisos in that paragraph), not later than the date of the shareholders' meeting to vote upon the reorganization, or (2) in any other case within 30 days after the date on which the notice of the approval by the outstanding shares pursuant to subdivision (a) or the notice pursuant to subdivision (i) of Section 1110 was mailed to the shareholder.

(c) The demand shall state the number and class of the shares held of record by the shareholder which the shareholder demands that the corporation purchase and shall contain a statement of what such shareholder claims to be the fair market value of those shares as of the day before the announcement of the proposed reorganization or short-form merger. The statement of fair market value constitutes an offer by the shareholder to sell the shares at such price.

SEC. 1.5. Section 5211 of the Corporations Code is amended to read:

5211. (a) Unless otherwise provided in the articles or in the bylaws:

(1) Meetings of the board may be called by the chairman of the board or the president or any vice president or the secretary or any two directors.

(2) Regular meetings of the board may be held without notice if the time and place of such meetings are fixed by the bylaws or the board. Special meetings of the board shall be held upon four days' notice by first-class mail or 48 hours' notice delivered personally or by telephone or telegraph. The articles or bylaws may not dispense with notice of a special meeting. A notice, or waiver of notice, need not specify the purpose of any regular or special meeting of the board.

(3) Notice of a meeting need not be given to any director who signed a waiver of notice or a written consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to such director. All such waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meetings.

(4) A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. If the meeting is adjourned for more than 24 hours, notice of any adjournment to another time or place shall be given prior to the time

of the adjourned meeting to the directors who were not present at the time of the adjournment.

(5) Meetings of the board may be held at any place within or without the state which has been designated in the notice of the meeting or, if not stated in the notice or there is no notice, designated in the bylaws or by resolution of the board.

(6) Members of the board may participate in a meeting through use of conference telephone or similar communications equipment, so long as all members participating in such meeting can hear one another. Participation in a meeting pursuant to this subdivision constitutes presence in person at such meeting.

(7) A majority of the number of directors authorized in the articles or bylaws constitutes a quorum of the board for the transaction of business. The articles or bylaws may not provide that a quorum shall be less than one-fifth the number of directors authorized in the articles or bylaws, or less than two, whichever is larger, unless the number of directors authorized in the articles or bylaws is one, in which case one director constitutes a quorum.

(8) Subject to the provisions of Sections 5212, 5233, 5234, 5235, and subdivision (e) of Section 5238, every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present is the act of the board. The articles or bylaws may not provide that a lesser vote than a majority of the directors present at a meeting is the act of the board. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for such meeting, or such greater number as is required by this division, the articles or bylaws.

(b) Any action required or permitted to be taken by the board may be taken without a meeting, if all members of the board shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the board. Such action by written consent shall have the same force and effect as the unanimous vote of such directors. For the purposes of this section only, "all members of the board" shall not include any "interested director" as defined in Section 5233.

(c) The provisions of this section apply also to incorporators, to committees of the board, and to action by such incorporators or such committees mutatis mutandis.

SEC. 1.7. Section 5516 is added to the Corporations Code, to read:

5516. Any action required or permitted to be taken by the members may be taken without a meeting, if all members shall individually or collectively consent in writing to the action. The written consent or consents shall be filed with the minutes of the proceedings of the members. The action by written consent shall have the same force and effect as the unanimous vote of the members.

SEC. 2. Section 5220 of the Corporations Code is amended to read:

5220. (a) Except as provided in subdivision (d), directors shall be elected for such terms, not longer than three years, as are fixed

in the articles or bylaws. In the absence of any provision in the articles or bylaws, the term shall be one year. No amendment of the articles or bylaws may extend the term of a director beyond that for which the director was elected, nor may any bylaw provision increasing the terms of directors be adopted without approval of the members (Section 5034).

(b) Unless the articles or bylaws otherwise provide, each director, including a director elected to fill a vacancy, shall hold office until the expiration of the term for which elected and until a successor has been elected and qualified.

(c) The articles or bylaws may provide for the election of one or more directors by the members of any class voting as a class.

(d) Subdivisions (a) through (c) notwithstanding, all or any portion of the directors authorized in the articles or bylaws of a corporation without members and up to one-third of the directors authorized in the articles or bylaws of a corporation with members, may hold office by virtue of designation or selection as provided by the articles or bylaws rather than by election by a member or members. Such directors shall continue in office for the term prescribed by the governing article or bylaw provision, or, if there is no term prescribed, until the governing article or bylaw provision is duly amended or repealed, except as provided in subdivision (e) of Section 5222. A bylaw provision authorized by this subdivision may be adopted, amended, or repealed only by approval of the members (Section 5034), subject, if so provided in the bylaws, to the consent of the person or persons entitled to designate or select any such director or directors. The articles or bylaws of a corporation without members may provide that directors may be elected for one or more terms of up to six years.

(e) The one-third limit set forth in subdivision (d) does not apply to:

(1) Directors designated or selected by a government office, board, commission, department, agency or political subdivision.

(2) Directors designated or selected by a person who is elected by the members as an officer of the corporation.

(3) Directors appointed to fill vacancies on the board created by the death, resignation or removal of directors.

SEC. 3. Section 5221 of the Corporations Code is amended to read:

5221. The board may declare vacant the office of a director who has been declared of unsound mind by a final order of court, or convicted of a felony, or been found by a final order or judgment of any court to have breached any duty under Article 3 (commencing with Section 5230), or, if at the time a director is elected, the bylaws provide that a director may be removed for missing a specified number of board meetings, fails to attend the specified number of meetings.

SEC. 4. Section 5233 of the Corporations Code is amended to read:

5233. (a) Except as provided in subdivision (b), for the purpose of this section, a self-dealing transaction means a transaction to which

the corporation is a party and in which one or more of its directors has a material financial interest and which does not meet the requirements of paragraph (1), (2), or (3) of subdivision (d). Such a director is an "interested director" for the purpose of this section.

(b) The provisions of this section do not apply to any of the following:

(1) An action of the board fixing the compensation of a director as a director or officer of the corporation.

(2) A transaction which is part of a public or charitable program of the corporation if it: (i) is approved or authorized by the corporation in good faith and without unjustified favoritism; and (ii) results in a benefit to one or more directors or their families because they are in the class of persons intended to be benefited by the public or charitable program.

(3) A transaction, of which the interested director or directors have no actual knowledge, and which does not exceed the lesser of 1 percent of the gross receipts of the corporation for the preceding fiscal year or one hundred thousand dollars (\$100,000).

(c) The Attorney General or, if the Attorney General is joined as an indispensable party, any of the following may bring an action in the superior court of the proper county for the remedies specified in subdivision (h):

(1) The corporation, or a member asserting the right in the name of the corporation pursuant to Section 5710.

(2) A director of the corporation.

(3) An officer of the corporation.

(4) Any person granted relator status by the Attorney General.

(d) In any action brought under subdivision (c) the remedies specified in subdivision (h) shall not be granted if:

(1) The Attorney General, or the court in an action in which the Attorney General is an indispensable party, has approved the transaction before or after it was consummated; or

(2) The following facts are established:

(A) The corporation entered into the transaction for its own benefit;

(B) The transaction was fair and reasonable as to the corporation at the time the corporation entered into the transaction;

(C) Prior to consummating the transaction or any part thereof the board authorized or approved the transaction in good faith by a vote of a majority of the directors then in office without counting the vote of the interested director or directors, and with knowledge of the material facts concerning the transaction and the director's interest in the transaction. Except as provided in paragraph (3) of this subdivision, action by a committee of the board shall not satisfy this paragraph; and

(D) Prior to authorizing or approving the transaction the board considered and in good faith determined after reasonable investigation under the circumstances that the corporation could not have obtained a more advantageous arrangement with reasonable effort under the circumstances or the corporation in fact could not

have obtained a more advantageous arrangement with reasonable effort under the circumstances; or

(3) The following facts are established:

(A) A committee or person authorized by the board approved the transaction in a manner consistent with the standards set forth in paragraph (2) of this subdivision;

(B) It was not reasonably practicable to obtain approval of the board prior to entering into the transaction; and

(C) The board, after determining in good faith that the conditions of subparagraphs (A) and (B) of this paragraph were satisfied, ratified the transaction at its next meeting by a vote of the majority of the directors then in office without counting the vote of the interested director or directors.

(e) Except as provided in subdivision (f), an action under subdivision (c) must be filed within two years after written notice setting forth the material facts of the transaction and the director's interest in the transaction is filed with the Attorney General in accordance with such regulations, if any, as the Attorney General may adopt or, if no such notice is filed, within three years after the transaction occurred, except for the Attorney General, who shall have 10 years after the transaction occurred within which to file an action.

(f) In any action for breach of an obligation of the corporation owed to an interested director, where the obligation arises from a self-dealing transaction which has not been approved as provided in subdivision (d), the court may, by way of offset only, make any order authorized by subdivision (h), notwithstanding the expiration of the applicable period specified in subdivision (e).

(g) Interested directors may be counted in determining the presence of a quorum at a meeting of the board which authorizes, approves or ratifies a contract or transaction.

(h) If a self-dealing transaction which has not been approved as provided in subdivision (d) has taken place, the interested director or directors shall do such things and pay such damages as in the discretion of the court will provide an equitable and fair remedy to the corporation, taking into account any benefit received by the corporation and whether the interested director or directors acted in good faith and with intent to further the best interest of the corporation. Without limiting the generality of the foregoing, the court may order the director to do any or all of the following:

(1) Account for any profits made from such transaction, and pay them to the corporation;

(2) Pay the corporation the value of the use of any of its property used in such transaction; and

(3) Return or replace any property lost to the corporation as a result of such transaction, together with any income or appreciation lost to the corporation by reason of such transaction, or account for any proceeds of sale of such property, and pay the proceeds to the corporation together with interest at the legal rate. The court may award prejudgment interest to the extent allowed in Section 3287 or

3288 of the Civil Code. In addition, the court may, in its discretion, grant exemplary damages for a fraudulent or malicious violation of this section.

SEC. 5. Section 5310 of the Corporations Code is amended to read:

5310. (a) A corporation may admit persons to membership, as provided in its articles or bylaws, or may provide in its articles or bylaws that it shall have no members. In the absence of any provision in its articles or bylaws providing for members, a corporation shall have no members.

(b) In the case of a corporation which has no members, any action which would otherwise require approval by a majority of all members (Section 5033) or approval by the members (Section 5034) shall require only approval of the board, any provision of this part or the articles or bylaws to the contrary notwithstanding.

(c) Reference in this part to a corporation which has no members includes a corporation in which the directors are the only members.

SEC. 6. Section 5513 of the Corporations Code is amended to read:

5513. (a) Subject to subdivision (e), and unless prohibited in the articles or bylaws, any action which may be taken at any regular or special meeting of members may be taken without a meeting if the corporation distributes a written ballot to every member entitled to vote on the matter. Such ballot shall set forth the proposed action, provide an opportunity to specify approval or disapproval of any proposal, and provide a reasonable time within which to return the ballot to the corporation.

(b) Approval by written ballot pursuant to this section shall be valid only when the number of votes cast by ballot within the time period specified equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

(c) Ballots shall be solicited in a manner consistent with the requirements of subdivision (b) of Section 5511, and Section 5514. All such solicitations shall indicate the number of responses needed to meet the quorum requirement and, with respect to ballots other than for the election of directors, shall state the percentage of approvals necessary to pass the measure submitted. The solicitation must specify the time by which the ballot must be received in order to be counted.

(d) Unless otherwise provided in the articles or bylaws, a written ballot may not be revoked.

(e) Directors may be elected by written ballot under this section, where authorized by the articles or bylaws, except that election by written ballot may not be authorized where the directors are elected by cumulative voting pursuant to Section 5616.

SEC. 7. Section 5521 of the Corporations Code is amended to

read:

5521. Except for directors who are elected as authorized by Section 5152 or 5153, and except as provided in Section 5522, any person who is qualified to be elected to the board of directors of a corporation with 500 or more members may be nominated:

(a) By any method authorized by the bylaws, or if no method is set forth in the bylaws by any method authorized by the board;

(b) By petition delivered to an officer of the corporation, signed within 11 months preceding the next time directors will be elected, by members representing the following number of votes:

Number of Votes Eligible to be Cast for Director Disregarding any Provision for Cumulative Voting		Number of Votes
Under 5,000 .....	2	percent of voting power
5,000 or more .....	one-twentieth of 1 per- cent of voting power but not less than 100, nor more than 500.	

(c) If there is a meeting to elect directors, by any member present at the meeting in person or by proxy if proxies are permitted.

SEC. 8. Section 5522 of the Corporations Code is amended to read:

5522. (a) The provisions of this section shall apply to any election of a director or directors by members of a corporation with 5,000 or more members except for an election authorized by Section 5152 or 5153.

(b) The corporation's articles or bylaws shall set a date for the close of nominations for the board. The date shall not be less than 50 nor more than 120 days before the day directors are to be elected. No nominations for the board can be made after the date set for the close of nominations.

(c) If more people are nominated for the board than can be elected, the election shall take place by means of a procedure which allows all nominees a reasonable opportunity to solicit votes and all members a reasonable opportunity to choose among the nominees.

(d) If after the close of nominations the number of people nominated for the board is not more than the number of directors to be elected, the corporation may without further action declare that those nominated and qualified to be elected have been elected.

SEC. 9. Section 6018 of the Corporations Code is amended to read:

6018. (a) Subject to the provisions of Section 6010, the merger of any number of corporations with any number of foreign corporations may be effected if the foreign corporations are authorized by the laws under which they are formed to effect such a merger. The

surviving corporation may be any one of the constituent corporations and shall continue to exist under the laws of the state or place of its incorporation.

(b) If the surviving corporation is a public benefit corporation or a religious corporation, the merger proceedings with respect to that corporation and any disappearing corporation shall conform to the provisions of this chapter governing the merger of corporations, but if the surviving corporation is a foreign corporation, then, subject to the requirements of subdivision (d) and Section 6012, the merger proceedings may be in accordance with the laws of the state or place of incorporation of the surviving corporation.

(c) If the surviving corporation is a public benefit corporation or a religious corporation, the agreement and the officers' certificate of each constituent corporation shall be filed as provided in Section 6014 and thereupon, subject to subdivision (c) of Section 5008, the merger shall be effective as to each corporation; and each foreign disappearing corporation which is qualified for the transaction of intrastate business shall by virtue of the filing automatically surrender its right to transact intrastate business.

(d) If the surviving corporation is a foreign corporation, the merger shall become effective in accordance with the law of the jurisdiction in which it is organized, but shall be effective as to any disappearing corporation as of the time of effectiveness in such foreign jurisdiction upon the filing in this state as required by this subdivision. There shall be filed as to the domestic disappearing corporation or corporations a copy of the agreement, certificate or other document filed by the surviving foreign corporation in the state or place of its incorporation for the purpose of effecting the merger, which copy shall be certified by the public officer having official custody of the original or, in lieu thereof, either an executed counterpart of such agreement, certificate or other document or, in the case of a merger by agreement of merger, a copy of the agreement of merger with an officers' certificate of each constituent corporation attached as prescribed in Section 6014; and each foreign disappearing corporation which is qualified for the transaction of intrastate business shall automatically by such filing surrender its right to transact intrastate business.

SEC. 10. Section 6322 of the Corporations Code is amended to read:

6322. (a) Any provision of the articles or bylaws notwithstanding, every corporation shall furnish annually to its members and directors a statement of any transaction or indemnification of a kind described in subdivision (d) or (e), if any such transaction or indemnification took place. If the corporation issues an annual report to all members, this subdivision shall be satisfied by including the required information in the annual report. A corporation which does not issue an annual report to all members, pursuant to subdivision (c) or (d) of Section 6321, shall satisfy this section by mailing or delivering to its members the required

statement within 120 days after the close of the corporation's fiscal year.

(b) Except as provided in subdivision (c), a covered transaction under this section is a transaction in which the corporation, its parent, or its subsidiary was a party, and in which either of the following had a direct or indirect material financial interest:

(1) Any director or officer of the corporation, or its parent or subsidiary.

(2) Any holder of more than 10 percent of the voting power of the corporation, its parent or its subsidiary.

For the purpose of subdivision (d), an "interested person" is any person described in paragraph (1) or (2) of this subdivision.

(c) For the purpose of subdivision (b), a mere common directorship is not a material financial interest.

(d) The statement required by subdivision (a) shall describe briefly:

(1) Any covered transaction during the previous fiscal year involving more than fifty thousand dollars (\$50,000), or which was one of a number of covered transactions in which the same interested person had a direct or indirect material financial interest, and which transactions in the aggregate involved more than fifty thousand dollars (\$50,000).

(2) The names of the interested persons involved in such transactions, stating such person's relationship to the corporation, the nature of such person's interest in the transaction and, where practicable, the amount of such interest; provided, that in the case of a transaction with a partnership of which such person is a partner, only the interest of the partnership need be stated.

(e) The statement required by subdivision (a) shall describe briefly the amount and circumstances of any indemnifications or advances aggregating more than ten thousand dollars (\$10,000) paid during the fiscal year to any officer or director of the corporation pursuant to Section 5238; provided that no such report need be made in the case of indemnification approved by the members (Section 5034) under paragraph (2) of subdivision (e) of Section 5238.

SEC. 11. Section 6611 of the Corporations Code is amended to read:

6611. (a) Whenever a corporation has elected to wind up and dissolve a certificate evidencing such election shall forthwith be filed and a copy thereof filed with the Attorney General.

(b) The certificate shall be an officer's certificate or shall be signed and verified by at least a majority of the directors then in office or by one or more members authorized to do so by a vote of a majority of all members (Section 5033) and shall set forth:

(1) That the corporation has elected to wind up and dissolve.

(2) If the election was made by the vote of members alone, the number of votes for the election and that the election was made by a majority of all members (Section 5033).

(3) If the election was made by the board and members pursuant

to paragraph (2) of subdivision (a) of Section 6610, the certificate shall state that it was made by the board and the members in accordance with Section 5034.

(4) If the certificate is executed by a member or members, that the subscribing person or persons were authorized to execute the certificate by a majority of all members (Section 5033).

(5) If the election was made by the board pursuant to subdivision (b) of Section 6610, the certificate shall also set forth the circumstances showing the corporation to be within one of the categories described in such subdivision.

SEC. 12. Section 7211 of the Corporations Code is amended to read:

7211. (a) Unless otherwise provided in the articles or in the bylaws:

(1) Meetings of the board may be called by the chairman of the board or the president or any vice president or the secretary or any two directors.

(2) Regular meetings of the board may be held without notice if the time and place of such meetings are fixed by the bylaws or the board. Special meetings of the board shall be held upon four days' notice by first-class mail or 48 hours' notice delivered personally or by telephone or telegraph. The articles or bylaws may not dispense with notice of a special meeting. A notice, or waiver of notice, need not specify the purpose of any regular or special meeting of the board.

(3) Notice of a meeting need not be given to any director who signed a waiver of notice or a written consent to holding the meeting or an approval of the minutes thereof, whether before or after the meeting, or who attends the meeting without protesting, prior thereto or at its commencement, the lack of notice to such director. All such waivers, consents and approvals shall be filed with the corporate records or made a part of the minutes of the meetings.

(4) A majority of the directors present, whether or not a quorum is present, may adjourn any meeting to another time and place. If the meeting is adjourned for more than 24 hours, notice of any adjournment to another time or place shall be given prior to the time of the adjourned meeting to the directors who were not present at the time of the adjournment.

(5) Meetings of the board may be held at any place within or without the state which has been designated in the notice of the meeting or, if not stated in the notice or if there is no notice, designated in the bylaws or by resolution of the board.

(6) Members of the board may participate in a meeting through use of conference telephone or similar communications equipment, so long as all members participating in such meeting can hear one another. Participation in a meeting pursuant to this subdivision constitutes presence in person at such meeting.

(7) A majority of the number of directors authorized in the articles or bylaws constitutes a quorum of the board for the

transaction of business. The articles or bylaws may not provide that a quorum shall be less than one-fifth the number of directors authorized in the articles or bylaws, or less than two, whichever is larger, unless the number of directors authorized in the articles or bylaws is one, in which case one director constitutes a quorum.

(8) Subject to the provisions of Sections 7212, 7233, 7234, and subdivision (e) of Section 7237 and Section 5233, insofar as it is made applicable pursuant to Section 7238, every act or decision done or made by a majority of the directors present at a meeting duly held at which a quorum is present is the act of the board. The articles or bylaws may not provide that a lesser vote than a majority of the directors present at a meeting is the act of the board. A meeting at which a quorum is initially present may continue to transact business notwithstanding the withdrawal of directors, if any action taken is approved by at least a majority of the required quorum for such meeting, or such greater number as is required by this division, the articles or bylaws.

(b) Any action required or permitted to be taken by the board may be taken without a meeting, if all members of the board shall individually or collectively consent in writing to such action. Such written consent or consents shall be filed with the minutes of the proceedings of the board. Such action by written consent shall have the same force and effect as a unanimous vote of such directors.

(c) The provisions of this section apply also to incorporators, to committees of the board, and to action by such incorporators or such committees *mutatis mutandis*.

SEC. 13. Section 7220 of the Corporations Code is amended to read:

7220. (a) Except as provided in subdivision (d), directors shall be elected for such terms, not longer than three years, as are fixed in the articles or bylaws. In the absence of any provision in the articles or bylaws, the term shall be one year. No amendment of the articles or bylaws may extend the term of a director beyond that for which the director was elected, nor may any bylaw provision increasing the terms of directors be adopted without approval of the members (Section 5034).

(b) Unless the articles or bylaws otherwise provide, each director, including a director elected to fill a vacancy, shall hold office until the expiration of the term for which elected and until a successor has been elected and qualified.

(c) The articles or bylaws may provide for the election of one or more directors by the members of any class voting as a class.

(d) Subdivisions (a) through (c) notwithstanding, all or any portion of the directors authorized in the articles or bylaws of a corporation without members, and up to one-third of the directors authorized in the articles or bylaws of a corporation with members, may hold office by virtue of designation or selection as provided by the articles or bylaws rather than by election by a member or members. Such directors shall continue in office for the term

prescribed by the governing article or bylaw provision, or, if there is no term prescribed, until the governing article or bylaw provision is duly amended or repealed, except as provided in subdivision (e) of Section 7222. A bylaw provision authorized by this subdivision may be adopted, amended, or repealed only by approval of the members (Section 5034). The articles or bylaws of a corporation without members may provide that directors may be elected for one or more terms of up to six years.

(e) The one-third limit set forth in subdivision (d) does not apply to:

(1) Directors designated or selected by a government office, board, commission, department, agency or political subdivision.

(2) Directors designated or selected by a person who is elected by the members as an officer of the corporation.

(3) Directors appointed to fill vacancies on the board created by the death, resignation or removal of directors.

SEC. 14. Section 7221 of the Corporations Code is amended to read:

7221. The board may declare vacant the office of a director who has been declared of unsound mind by a final order of court, or convicted of a felony, or, in the case of a corporation holding assets in charitable trust, has been found by a final order or judgment of any court to have breached any duty arising as a result of Section 7238, or, if at the time a director is elected, the bylaws provide that a director may be removed for missing a specified number of board meetings, fails to attend the specified number of meetings.

SEC. 15. Section 7310 of the Corporations Code is amended to read:

7310. (a) A corporation may admit persons to membership, as provided in its articles or bylaws, or may provide in its articles or bylaws that it shall have no members. In the absence of any provision in its articles or bylaws providing for members, a corporation shall have no members.

(b) In the case of a corporation which has no members:

(1) Any action which would otherwise require approval by a majority of all members (Section 5033) or approval by the members (Section 5034) shall require only approval of the board, any provision of this part or the articles or bylaws to the contrary notwithstanding.

(2) All rights which would otherwise vest in the members to share in a distribution upon dissolution shall vest in the directors.

(c) Reference in this part to a corporation which has no members includes a corporation in which the directors are the only members.

SEC. 16. Section 7313 of the Corporations Code is amended to read:

7313. (a) Except as provided in subdivision (d) of Section 7311, a corporation may, but is not required to, issue membership certificates. Nothing in this section shall restrict a corporation from issuing identity cards or similar devices to members which serve to identify members qualifying to use facilities or services of the

corporation.

(b) Membership certificates issued by corporations shall state on the certificate that:

(1) The corporation is a nonprofit mutual benefit corporation which may not make distributions to its members except upon dissolution, or, if the articles or bylaws so provide, that it may not make distributions to its members during its life or upon dissolution;

(2) If there are restrictions upon the transferability, a statement that a copy of the restrictions are on file with the secretary of the corporation and are open for inspection by a member on the same basis as the records of the corporation; and

(3) The statement, if any, required by subdivision (d) of Section 7311.

(c) If the membership certificates are transferable only with consent of the corporation, or if there are no membership certificates, then instead of complying with paragraph (2) of subdivision (b) the corporation may, or if there are no membership certificates, shall, give notice to the transferee, within a reasonable time after the corporation is first notified of the proposed transfer, and before the membership is transferred on the books and records of the corporation, of the information that would otherwise be provided by the legends required by paragraph (2) of subdivision (b).

(d) If the articles or bylaws are amended so that any statement required by subdivision (b) upon outstanding membership certificates is no longer accurate, then the board may cancel the outstanding certificates and issue in their place new certificates conforming to the articles or bylaw amendments.

(e) Where new membership certificates are issued in accordance with subdivision (d), the board may order holders of outstanding certificates to surrender and exchange them for new certificates within a reasonable time fixed by the board. The board may further provide that the holder of a certificate so ordered to be surrendered shall not be entitled to exercise any of the rights of membership until the certificate is surrendered and exchanged, but rights shall be suspended only after notice of such order is given to the holder of the certificate and only until the certificate is exchanged. The duty of surrender of any outstanding certificates may also be enforced by civil action.

SEC. 17. Section 7512 of the Corporations Code is amended to read:

7512. (a) A majority of the voting power, represented in person or by proxy, shall constitute a quorum at a meeting of members, but, subject to subdivisions (b) and (c), a bylaw may set a different quorum. Any bylaw amendment to increase the quorum may be adopted only by approval of the members (Section 5034). If a quorum is present, the affirmative vote of the majority of the voting power represented at the meeting, entitled to vote, and voting on any matter shall be the act of the members unless the vote of a

greater number or voting by classes is required by this part or the articles or bylaws.

(b) Where a bylaw authorizes a corporation to conduct a meeting with a quorum of less than one-third of the voting power, then the only matters that may be voted upon at any regular meeting actually attended, in person or by proxy, by less than one-third of the voting power are matters notice of the general nature of which was given, pursuant to the first sentence of subdivision (a) of Section 7511.

(c) Subject to subdivision (b), the members present at a duly called or held meeting at which a quorum is present may continue to transact business until adjournment notwithstanding the withdrawal of enough members to leave less than a quorum, if any action taken (other than adjournment) is approved by at least a majority of the members required to constitute a quorum.

(d) In the absence of a quorum, any meeting of members may be adjourned from time to time by the vote of a majority of the votes represented either in person or by proxy, but no other business may be transacted, except as provided in subdivision (c).

SEC. 18. Section 7513 of the Corporations Code is amended to read:

7513. (a) Subject to subdivision (e), and unless prohibited in the articles or bylaws, any action which may be taken at any regular or special meeting of members may be taken without a meeting if the corporation distributes a written ballot to every member entitled to vote on the matter. Such ballot shall set forth the proposed action, provide an opportunity to specify approval or disapproval of any proposal, and provide a reasonable time within which to return the ballot to the corporation.

(b) Approval by written ballot pursuant to this section shall be valid only when the number of votes cast by ballot within the time period specified equals or exceeds the quorum required to be present at a meeting authorizing the action, and the number of approvals equals or exceeds the number of votes that would be required to approve at a meeting at which the total number of votes cast was the same as the number of votes cast by ballot.

(c) Ballots shall be solicited in a manner consistent with the requirements of subdivision (b) of Section 7511 and Section 7514. All such solicitations shall indicate the number of responses needed to meet the quorum requirement and, with respect to ballots other than for the election of directors, shall state the percentage of approvals necessary to pass the measure submitted. The solicitation must specify the time by which the ballot must be received in order to be counted.

(d) Unless otherwise provided in the articles or bylaws, a written ballot may not be revoked.

(e) Directors may be elected by written ballot under this section, where authorized by the articles or bylaws, except that election by written ballot may not be authorized where the directors are elected by cumulative voting pursuant to Section 7615.

SEC. 19. Section 7521 of the Corporations Code is amended to read:

7521. Except for directors who are elected as authorized by Section 7152 or 7153, and except as provided in Section 7522, any person who is qualified to be elected to the board of directors of a corporation with 500 or more members may be nominated:

(a) By any method authorized by the bylaws, or if no method is set forth in the bylaws by any method authorized by the board;

(b) By petition delivered to an officer of the corporation, signed within 11 months preceding the next time directors will be elected, by members representing the following number of votes:

Number of Votes Eligible to be Cast for Director Disregarding any Provision for Cumulative Voting		Number of Votes
Under 5,000 .....	2	percent of voting power
5,000 or more .....	one-twentieth of 1 per-	cent of voting power but not less than 100.

(c) Notwithstanding subdivision (b), in corporations with one million or more members engaged primarily in the business of retail merchandising of consumer goods, by petition delivered to an officer of the corporation, signed within 11 months preceding the next time directors will be elected, by such reasonable number of members, consistent with Section 7520, as is set forth in the bylaws, or if no number is set forth in the bylaws, by such reasonable number of members, consistent with Section 7520, as is determined by the directors.

(d) If there is a meeting to elect directors, by any member present at the meeting in person or by proxy if proxies are permitted.

SEC. 20. Section 7522 of the Corporations Code is amended to read:

7522. (a) The provisions of this section shall apply to any election of a director or directors by members of a corporation with 5,000 or more members except for an election authorized by Section 7152 or 7153.

(b) The corporation's articles or bylaws shall set a date for the close of nominations for the board. The date shall not be less than 50 nor more than 120 days before the day directors are to be elected. No nominations for the board can be made after the date set for the close of nominations.

(c) If more people are nominated for the board than can be elected, the election shall take place by means of a procedure which allows all nominees a reasonable opportunity to solicit votes and all members a reasonable opportunity to choose among the nominees.

(d) If after the close of nominations the number of people

nominated for the board is not more than the number of directors to be elected, the corporation may without further action declare that those nominated and qualified to be elected have been elected.

SEC. 21. Section 8018 of the Corporations Code is amended to read:

8018. (a) Subject to the provisions of Section 8010, the merger of any number of corporations with any number of foreign corporations, foreign business corporations or domestic corporations may be effected if the foreign corporations are authorized by the laws under which they are formed to effect such a merger. The surviving corporation may be any one of the constituent corporations and shall continue to exist under the laws of the state or place of its incorporation.

(b) If the surviving corporation is a mutual benefit corporation, the merger proceedings with respect to that corporation and any domestic disappearing corporation shall conform to the provisions of this chapter and other applicable laws of this state, but if the surviving corporation is a foreign corporation, then, subject to the requirements of subdivision (d) and Section 8012 the merger proceedings may be in accordance with the laws of the state or place of incorporation of the surviving corporation.

(c) If the surviving corporation is a mutual benefit corporation or a religious corporation, the agreement and the officers' certificate of each constituent corporation shall be filed as provided in Section 8014 and thereupon, subject to subdivision (c) of Section 5008, the merger shall be effective as to each corporation; and each foreign disappearing corporation which is qualified for the transaction of intrastate business shall, by virtue of the filing, automatically surrender its right to transact intrastate business.

(d) If the surviving corporation is a foreign corporation, or foreign business corporation, the merger shall become effective in accordance with the law of the jurisdiction in which it is organized, but shall be effective as to any disappearing corporation as of the time of effectiveness in such foreign jurisdiction upon the filing in this state as required by this subdivision. There shall be filed as to the domestic disappearing corporation or corporations a copy of the agreement, certificate or other document filed by the surviving foreign corporation in the state or place of its incorporation for the purpose of effecting the merger, which copy shall be certified by the public officer having official custody of the original or, in lieu thereof, either an executed counterpart of such agreement, certificate or other document or, in the case of a merger by agreement of merger, a copy of the agreement of merger with an officer's certificate of each constituent corporation attached as prescribed in Section 8014; and each foreign disappearing corporation which is qualified for the transaction of intrastate business shall automatically by such filing surrender its right to transact intrastate business.

SEC. 22. Section 8019 is added to the Corporations Code, to read:

8019. If an agreement of merger is entered into between a

nonprofit corporation and a business corporation, Sections 8011, 8011.5, 8012, 8014, and 8015 shall apply to any constituent mutual benefit corporation. Sections 6011, 6012, 6014, and 6015 shall apply to any constituent public benefit corporation. Sections 6014 and 6015 and subdivisions (c) and (d) of Section 9640 shall apply to any constituent religious corporation and Sections 1101, 1101.1, 1103, and 1104 shall apply to any constituent business corporation.

SEC. 23. Section 8322 of the Corporations Code is amended to read:

8322. (a) Any provision of the articles or bylaws notwithstanding, every corporation shall furnish annually to its members and directors a statement of any transaction or indemnification of a kind described in subdivision (d) or (e), if any such transaction or indemnification took place. If the corporation issues an annual report to all members, this subdivision shall be satisfied by including the required information in the annual report. A corporation which does not issue an annual report to all members, pursuant to subdivision (c) of Section 8321, shall satisfy this section by mailing or delivering to its members the required statement within 120 days after the close of the corporation's fiscal year.

(b) Except as provided in subdivision (c), a covered transaction under this section is a transaction in which the corporation, its parent, or its subsidiary was a party, and in which either of the following had a direct or indirect material financial interest:

(1) Any director or officer of the corporation, or its parent or subsidiary.

(2) Any holder of more than 10 percent of the voting power of the corporation, its parent or its subsidiary.

For the purpose of subdivision (d), an "interested person" is any person described in paragraph (1) or (2) of this subdivision.

(c) Transactions approved by the members of a corporation (Section 5034), under subdivision (a) of Section 7233, are not covered transactions. For the purpose of subdivision (b), a mere common directorship is not a material financial interest.

(d) The statement required by subdivision (a) shall describe briefly:

(1) Any covered transaction (excluding compensation of officers and directors) during the previous fiscal year involving more than forty thousand dollars (\$40,000), or which was one of a number of covered transactions in which the same interested person had a direct or indirect material financial interest, and which transactions in the aggregate involved more than forty thousand dollars (\$40,000).

(2) The names of the interested persons involved in such transactions, stating such person's relationship to the corporation, the nature of such person's interest in the transaction and, where practicable, the amount of such interest; provided, that in the case of a transaction with a partnership of which such person is a partner, only the interest of the partnership need be stated.

(e) The statement required by subdivision (a) shall describe briefly the amount and circumstances of any indemnifications or advances aggregating more than ten thousand dollars (\$10,000) paid during the fiscal year to any officer or director of the corporation pursuant to Section 7237; provided that no such report need be made in the case of indemnification approved by the members (Section 5034) under subdivision (e) (2) of Section 7237.

SEC. 24. Section 8610 of the Corporations Code is amended to read:

8610. (a) Any corporation may elect voluntarily to wind up and dissolve by the vote of a majority of all the members (Section 5033).

(b) Any corporation which comes within one of the following descriptions may elect by approval of the board to wind up and dissolve:

(1) A corporation which has been adjudicated as bankrupt.

(2) A corporation which has disposed of all of its assets and has not conducted any activity for a period of five years immediately preceding the adoption of the resolution electing to dissolve the corporation.

(3) A corporation which has no members.

(4) A corporation which is required to dissolve under provisions of its articles adopted pursuant to subdivision (a), paragraph (4), clause (i) of Section 7132.

SEC. 25. Section 8611 of the Corporations Code is amended to read:

8611. (a) Whenever a corporation has elected to wind up and dissolve a certificate evidencing such election shall forthwith be filed. A copy of such certificate shall be filed with the Attorney General if the corporation holds assets in charitable trust or has a charitable dissolution clause.

(b) The certificate shall be an officers certificate or shall be signed and verified by at least a majority of the directors then in office or by one or more members authorized to do so by a vote of a majority of all members (Section 5033) and shall set forth:

(1) That the corporation has elected to wind up and dissolve.

(2) If the election was made by the vote of members alone, the number of votes for the election and that the election was made by persons holding at least a majority of the voting power.

(3) If the certificate is executed by a member or members that the subscribing person or persons were authorized to execute the certificate by persons representing at least a majority of the voting power.

(4) If the election was made by the board pursuant to subdivision (b) of Section 8610, the certificate shall also set forth the circumstances showing the corporation to be within one of the categories described in such subdivision.

SEC. 26. Section 9151 of the Corporations Code is amended to read:

9151. (a) The bylaws shall set forth (unless such provision is

contained in the articles, in which case it may only be changed by an amendment of the articles) the number of directors of the corporation; or that the number of directors shall be not less than a stated minimum nor more than a stated maximum with the exact number of directors to be fixed, within the limits specified, by approval of the board or the members (Section 5034), in the manner provided in the bylaws, subject to subdivision (e) of Section 9151. The number or minimum number of directors may be one or more.

(b) Except as otherwise provided in the articles or bylaws, once members have been admitted, a bylaw specifying or changing a fixed number of directors or the maximum or minimum number or changing from a fixed to a variable board or vice versa may only be adopted by approval of the members (Section 5034).

(c) The bylaws may contain any provision, not in conflict with law or the articles, for the management of the activities and for the conduct of the affairs of the corporation.

(d) The bylaws may provide for the manner of admission, withdrawal, suspension, and expulsion of members.

(e) The bylaws may require, for any or all corporate actions (except as provided in Section 9222 and subdivision (b) of Section 9680), the vote of a larger proportion of, or all of, the members or the members of any class, unit, or grouping of members, or the vote of a larger proportion of, or all of, the directors than is otherwise required by this part. Such a provision in the bylaws requiring such greater vote shall not be altered, amended or repealed except by such greater vote, unless otherwise provided in the bylaws.

(f) The bylaws may contain a provision limiting the number of members, in total or of any class, which the corporation is authorized to admit.

SEC. 27. Section 9913 of the Corporations Code is amended to read:

9913. (a) The provisions of Sections 5130, 5131 and 5132 of the new Public Benefit Corporation Law relating to the contents of articles of incorporation do not apply to subject corporations designated as public benefit corporations unless and until an amendment of the articles is filed stating that the corporation elects to be governed by all of the provisions of the new law not otherwise applicable to it under this part.

(b) The provisions of Section 7130 and Sections 7131 and 7132 of the new Mutual Benefit Corporation Law relating to the contents of articles of incorporation do not apply to subject corporations governed by the Mutual Benefit Corporation Law unless and until an amendment of the articles of incorporation is filed stating that the corporation elects to be governed by all of the provisions of the new law not otherwise applicable to it under this part.

(c) The provisions of Sections 9130, 9131, and 9132 of the new Religious Corporation Law relating to the contents of articles of incorporation do not apply to subject corporations governed by the Religious Corporation Law unless and until an amendment of the

articles is filed stating that the corporation elects to be governed by all of the provisions of the new law not otherwise applicable to it under this part.

(d) The amendment described in subdivision (a) may be adopted by the board alone, except that if such amendment makes any change in the articles other than conforming the statement of purposes of the public benefit corporation to Section 5130 and the deletion of any references to the location of principal office and deleting any statement regarding the number of directors or conforming any such statement to Section 5151 (subject to Section 9915), it shall also be approved by the members (Section 5034) if such approval is otherwise required for the changes made.

(e) The amendment described in subdivision (b) may be adopted by the board alone, except that if such amendment makes any change in the articles other than conforming the statement of purposes of the mutual benefit corporation to subdivisions (a) and (b) of Section 7130 and the deletion of any references to the location of principal office and deleting any statement regarding the number of directors or conforming any such statement to Section 7151 (subject to Section 9915), it shall also be approved by the members (Section 5034) if such approval is otherwise required for the changes made.

(f) The amendment described in subdivision (c) may be adopted by the board alone, except that if such amendment makes any change in the articles other than conforming the statement of purposes of the religious corporation to Section 9130 and the deletion of any references to the location of principal office and deleting any statement regarding the number of directors or conforming any such statement to Section 9151 (subject to Section 9915), it shall also be approved by the members (Section 5034) if such approval is otherwise required for the changes made.

(g) The amendment shall not name the corporation's initial agent for service of process if a report required by Section 6210, 8210, or 6210 (made applicable by Section 9660), as the case may be, has been filed.

SEC. 28. Section 9917 of the Corporations Code is amended to read:

9917. Section 5238 governs any proposed indemnification by a public benefit corporation, Section 7237 governs any proposed indemnification by a mutual benefit corporation, and Section 9246 governs any proposed indemnification by a religious corporation, after January 1, 1980, whether the events upon which the indemnification is based occurred before or after January 1, 1980. Any statement relating to indemnification contained in the articles or bylaws of a subject corporation shall not be construed as limiting the indemnification permitted by Section 5238, Section 7237, or Section 9246 unless it is expressly stated as so intended.

SEC. 29. Section 9920 of the Corporations Code is amended to read:

9920. (a) The provisions of Chapter 5 (commencing with Section 5510) and Chapter 6 (commencing with Section 5610) of the new Public Benefit Corporation Law apply to any meeting of members of a public benefit corporation, the provisions of Chapter 5 (commencing with Section 7510) and Chapter 6 (commencing with Section 7610) of the new Mutual Benefit Corporation Law apply to any meeting of members of a mutual benefit corporation, and the provisions of Chapter 4 (commencing with Section 9410) of the new Religious Corporation Law apply to any meeting of members of a religious corporation, held on or after January 1, 1980, and to any action by such members pursuant to a written ballot, which becomes effective on or after January 1, 1980, and to any vote cast at such a meeting or ballot, given for such action (whether or not a proxy or ballot was executed by the member prior to January 1, 1980).

(b) Notwithstanding subdivision (a):

(1) The prior nonprofit law shall apply to any such meeting of members and to any vote cast at such a meeting if such meeting was initially called for a date prior to January 1, 1980, and notice thereof was given to members entitled to vote thereat; and

(2) Where a proxy would be valid under the prior nonprofit law but would not be valid for a public benefit corporation under the new Public Benefit Corporation Law, for a mutual benefit corporation under the new Mutual Benefit Corporation Law, or for a religious corporation under the new Religious Corporation Law, and where the proxy by its terms expires during or after 1980, such proxy may be voted at meetings of members during 1980 (prior to its expiration date) but not thereafter.

(3) A bylaw which authorizes a corporation to conduct a meeting of members with a quorum, fixed in such bylaw, of less than one-third of the voting power shall be valid if it was duly adopted before January 1, 1980, pursuant to the prior nonprofit law.

(4) Until December 31, 1981, any amendment of the articles or bylaws shall be valid if such amendment would have been valid under the prior nonprofit law. The provisions of this paragraph shall apply only to corporations which were in existence on December 31, 1979.

SEC. 30. Section 10200 of the Corporations Code is amended to read:

10200. Every corporation organized or existing under Part 3 (commencing with Section 10200) of Division 2 in effect on December 31, 1979, is subject to and deemed to be a nonprofit public benefit corporation organized for charitable purposes under Part 2 (commencing with Section 5110) of the Nonprofit Corporation Law (Division 2 (commencing with Section 5000) of this title) except if the corporation is organized primarily or exclusively for religious purposes, in which case it is subject to and deemed to be a nonprofit religious corporation under Part 4 (commencing with Section 9110) of the Nonprofit Corporation Law.

SEC. 31. Section 39363.5 of the Education Code is amended to

read:

39363.5. Except as provided for in Article 2 (commencing with Section 39030) of Chapter 1 of this part, the sale or lease with an option to purchase of real property by a school 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 on or after January 1, 1980, as a public benefit corporation 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 school 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 shall be made available in writing to the former owner, in accordance with Section 39369.5.

(d) Fourth, the property may be disposed of in any other manner authorized by law.

SEC. 31.5. Section 39363.5 of the Education Code is amended to read:

39363.5. Except as provided for in Article 2 (commencing with Section 39030) of Chapter 1 of this part, the sale or lease with an option to purchase of real property by a school 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 in both of the following ways:

(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.

(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 on or after January 1, 1980, as a public benefit corporation 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 school 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 determine which of such offers to accept.

(c) Third, the property may be disposed of in any other manner authorized by law.

SEC. 31.6. Section 92204 of the Education Code is amended to read:

92204. The business of the college, which includes the power to incur indebtedness, shall be managed by the board of directors. Six directors constitute a quorum for the transaction of all business. The directors shall serve without compensation.

One of the directors shall always be an heir or representative of S.C. Hastings. All other directors taking office after January 1, 1981, shall serve for terms of 12 years. Directors in office prior to January 1, 1981, shall serve for the terms provided in the bylaws of the college in effect on that date.

SEC. 31.7. Section 92205 of the Education Code is repealed.

SEC. 31.8. Section 92206 of the Education Code is amended to read:

92206. Vacancies occurring in the board of directors after January 1, 1981, other than through the death or resignation of the heir or representative of S.C. Hastings, shall be filled by the Governor and approved by the Senate, a majority of the membership concurring.

SEC. 31.9. Section 92207 of the Education Code is amended to read:

92207. The officers of the college are a dean, a registrar, and 11 directors. The dean and registrar shall be appointed by, and may be removed by the board of directors.

SEC. 31.10. Section 92208 of the Education Code is repealed.

SEC. 31.11. Section 92210 of the Education Code is amended to read:

92210. Professorships may be established in the name of any founder who pays to the college the sum of one hundred thousand dollars (\$100,000) or such greater sum as may be determined by the directors.

SEC. 32. Section 31004 of the Financial Code is amended to read:

31004. Except as otherwise provided in Chapter 14 (commencing with Section 31950) of this division:

(a) The provisions of the Nonprofit Corporation Law (Division 2 (commencing with Section 5000) of Title 1 of the Corporations Code) shall apply to any licensee which is a California nonprofit corporation; provided, however, that, whenever any provision of the Nonprofit Corporation Law conflicts with any provision of this division or of any regulation or order issued under this division, such provision of the Nonprofit Corporation Law shall not apply and such provision of this division or of such regulation or order issued under this division shall apply.

(b) The provisions of the General Corporation Law (Division 1 (commencing with Section 100), Title 1 of the Corporations Code) shall apply to any licensee other than a licensee which is a California nonprofit corporation; provided, however, that, whenever any provision of the General Corporation Law conflicts with any provision of this division or of any regulation or order issued under this division, such provision of the General Corporation Law shall not apply and such provision of this division or of such regulation or order issued under this division shall apply.

SEC. 33. Section 31037 of the Financial Code is amended to read:

31037. "California nonprofit corporation" means any corporation organized under the Nonprofit Corporation Law (Division 2 (commencing with Section 5000) of Title 1 of the Corporations Code) or any predecessor statute.

SEC. 34. Section 11496 of the Insurance Code is amended to read:

11496. Persons desiring to form a nonprofit hospital service corporation shall incorporate pursuant to the provisions of this chapter and the Nonprofit Hospital Service Plan Law (Article 4 (commencing with Section 10840) of Part 11 of Division 2 of Title 1 of the Corporations Code) and the provisions of the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110) of Division 2 of Title 1 of the Corporations Code), so far as the provisions of the Nonprofit Corporation Law are applicable and not inconsistent with this chapter.

SEC. 35. It is the intent of the Legislature, if this bill and Assembly Bill 2215 are both chaptered and become effective January 1, 1981, both bills amend Section 39363.5 of the Education Code, and this bill is chaptered after Assembly Bill 2215, that the amendments to Section 39363.5 proposed by both bills be given effect and incorporated in Section 39363.5 in the form set forth in Section 31.5 of this act. Therefore, Section 31.5 of this act shall become operative only if this bill and Assembly Bill 2215 are both chaptered and become effective January 1, 1981, both amend Section 39363.5, and this bill is chaptered after Assembly Bill 2215, in which case Section 31 of this act shall not become operative.

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## CHAPTER 1156

An act to add Section 730.5 to the Code of Civil Procedure, to amend Sections 9102, 9103, 9104, 9105, 9302, 9401, 9402, 9403, and 9501 of, and to add Sections 9313 and 11109 to, the Commercial Code, to amend Section 27282 of the Government Code, and to amend Section 11496 of the Insurance Code, relating to legal status.

[Approved by Governor September 27, 1980. Filed with  
Secretary of State September 29, 1980]

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

SECTION 1. Section 730.5 is added to the Code of Civil Procedure, to read:

730.5. Except as otherwise provided by subdivision (4) of Section 9501 of the Commercial Code, none of the provisions of this chapter or of Section 580a, 580b, 580c, or 580d apply to any security interest in fixtures governed by the Commercial Code.

SEC. 2. Section 9102 of the Commercial Code is amended to read:

9102. (1) Except as otherwise provided in Section 9104 on excluded transactions, this division applies

(a) To any transaction (regardless of its form) which is intended to create a security interest in personal property or fixtures including goods, documents, instruments, general intangibles, chattel paper or accounts; and also

(b) To any sale of accounts or chattel paper.

(2) This division applies to security interests created by contract including pledge, assignment, chattel mortgage, chattel trust, trust deed, inventory lien, equipment trust, conditional sale, trust receipt, other lien or title retention contract and lease or consignment intended as security. This division does not apply to statutory liens except as provided in Section 9310.

(3) The application of this division to a security interest in a secured obligation is not affected by the fact that the obligation is itself secured by a transaction or interest to which this division does not apply.

(4) Notwithstanding anything to the contrary in this division, no nonpossessory security interest, other than a purchase money security interest, may be given or taken in or to the inventory of a retail merchant held for sale, except in or to inventory consisting of durable goods having a unit retail value of at least five hundred dollars (\$500) or motor vehicles, house trailers, trailers, semitrailers, farm and construction machinery and repair parts thereof, or aircraft. A cooperative association organized pursuant to Chapter 1 (commencing with Section 54001), Division 20 of the Food and Agricultural Code (agricultural cooperative associations) or Part 3 (commencing with Section 13200), Division 3, Title 1 of the Corporations Code (Fish Marketing Act) is not to be deemed a merchant within the meaning of this subdivision. The phrase "purchase money security interest" as used in this subdivision does not extend to any after-acquired property other than the initial property sold by a secured party or taken by a lender as security as provided in Section 9107. This subdivision does not apply to the inventory of a person whose sales for resale exceeded 75 percent in dollar volume of his total sales of all goods during the 12 months preceding the attachment of the security interest. For the purpose of the preceding sentence, a sale of goods to a contractor, who is required to be licensed, for the purpose of incorporating such goods at any time into improvements or repairs to real property, is a sale

for resale.

SEC. 3. Section 9103 of the Commercial Code is amended to read:

9103. (1) (a) This subdivision applies to documents and instruments and to goods other than those covered by a certificate of title described in subdivision (2), mobile goods described in subdivision (3), and minerals described in subdivision (5).

(b) Except as otherwise provided in this subdivision, perfection and the effect of perfection or nonperfection of a security interest in collateral are governed by the law of the jurisdiction where the collateral is when the last event occurs on which is based the assertion that the security interest is perfected or unperfected.

(c) If the parties to a transaction creating a purchase money security interest in goods in one jurisdiction understand at the time that the security interest attaches that the goods will be kept in another jurisdiction, then the law of the other jurisdiction governs the perfection and the effect of perfection or nonperfection of the security interest from the time it attaches until 30 days after the debtor receives possession of the goods and thereafter if the goods are taken to the other jurisdiction before the end of the 30-day period.

(d) When collateral is brought into and kept in this state while subject to a security interest perfected under the law of the jurisdiction from which the collateral was removed, the security interest remains perfected, but if action is required by Chapter 3 of this division to perfect the security interest,

(i) If the action is not taken before the expiration of the period of perfection in the other jurisdiction or the end of four months after the collateral is brought into this state, whichever period first expires, the security interest becomes unperfected at the end of that period and is thereafter deemed to have been unperfected as against a person who became a purchaser after removal;

(ii) If the action is taken before the expiration of the period specified in subparagraph (i), the security interest continues perfected thereafter;

(iii) For the purpose of priority over a buyer of consumer goods (subdivision (2) of Section 9307), the period of the effectiveness of a filing in the jurisdiction from which the collateral is removed is governed by the rules with respect to perfection in subparagraphs (i) and (ii).

(e) If goods are or become fixtures (Section 9313(1)(a)) in relation to real estate located in this state, the conflicting interest of an encumbrancer or owner of the real estate is governed by Section 9313.

(2) (a) This subdivision applies to goods covered by a certificate of title issued under a statute of this state or of another jurisdiction under the law of which indication of a security interest on the certificate is required as a condition of perfection whether such certificate is designated a "certificate of title," "certificate of ownership," or otherwise.

(b) Except as otherwise provided in this subdivision, perfection and the effect of perfection or nonperfection of the security interest are governed by the law (including the conflict of laws rules) of the jurisdiction issuing the certificate until four months after the goods are removed from that jurisdiction and thereafter until the goods are registered in another jurisdiction, but in any event not beyond surrender of the certificate. After the expiration of that period, the goods are not covered by the certificate of title within the meaning of this section.

(c) Except with respect to the rights of a buyer described in the next paragraph, a security interest, perfected in another jurisdiction otherwise than by notation on a certificate of title, in goods brought into this state and thereafter covered by a certificate of title issued by this state is subject to the rules stated in paragraph (d) of subdivision (1).

(d) If goods are brought into this state while a security interest therein is perfected in any manner under the law of the jurisdiction from which the goods are removed and a certificate of title is issued by this state and the certificate does not show that the goods are subject to the security interest or that they may be subject to security interest not shown on the certificate, the security interest is subordinate to the rights of a buyer of the goods who is not in the business of selling goods of that kind to the extent that he gives value and receives delivery of the goods after issuance of the certificate and without knowledge of the security interest.

(3) (a) This subdivision applies to accounts (other than an account described in subdivision (5) on minerals) and general intangibles and to goods which are mobile and which are of a type normally used in more than one jurisdiction, such as motor vehicles, trailers, rolling stock, airplanes, shipping containers, roadbuilding and construction machinery and commercial harvesting machinery and the like, if the goods are equipment or are inventory leased or held for lease by the debtor to others, and are not covered by a certificate of title described in subdivision (2).

(b) The law (including the conflict of laws rules) of the jurisdiction in which the debtor is located governs the perfection and the effect of perfection or nonperfection of the security interest.

(c) If, however, the debtor is located in a jurisdiction which is not a part of the United States, and which does not provide for perfection of the security interest by filing or recording in that jurisdiction, the law of the jurisdiction in the United States in which the debtor has its major executive office in the United States governs the perfection and the effect of perfection or nonperfection of the security interest through filing. In the alternative, if the debtor is located in a jurisdiction which is not a part of the United States or Canada and the collateral is accounts or general intangibles for money due or to become due, the security interest may be perfected by notification to the account debtor. As used in this paragraph, "United States" includes its territories and possessions and the Commonwealth of

Puerto Rico.

(d) A debtor shall be deemed located at his place of business if he has one, at his chief executive office if he has more than one place of business, otherwise at his residence. If, however, the debtor is a foreign air carrier under the Federal Aviation Act of 1958, as amended, it shall be deemed located at the designated office of the agent upon whom service of process may be made on behalf of the foreign air carrier.

(e) A security interest perfected under the law of the jurisdiction of the location of the debtor is perfected until the expiration of four months after a change of the debtor's location to another jurisdiction, or until perfection would have ceased by the law of the first jurisdiction, whichever period first expires. Unless perfected in the new jurisdiction before the end of that period, it becomes unperfected thereafter and is deemed to have been unperfected as against a person who became a purchaser after the change.

(4) The rules stated for goods in subdivision (1) apply to a possessory security interest in chattel paper. The rules stated for accounts in subdivision (3) apply to a nonpossessory security interest in chattel paper, but the security interest may not be perfected by notification to the account debtor.

(5) Perfection and the effect of perfection or nonperfection of a security interest which is created by a debtor who has an interest in minerals or the like (including oil and gas) before extraction and which attaches thereto as extracted, or which attaches to an account resulting from the sale thereof at the wellhead or minehead are governed by the law (including the conflict of laws rules) of the jurisdiction wherein the wellhead or minehead is located.

SEC. 4. Section 9104 of the Commercial Code is amended to read:  
9104. This division does not apply

(a) To a security interest subject to any statute of the United States to the extent that such statute governs the rights of parties to and third parties affected by transactions in particular types of property; or

(c) To a lien given by statute or other rule of law for services or materials except as provided in Section 9310 on priority of such liens; or

(d) To a transfer of a claim for wages, salary or other compensation of an employee; or

(e) To a transfer, including creation of a security interest, by a government or governmental subdivision or agency; or

(f) To a sale of accounts or chattel paper as part of a sale of the business out of which they arose, or an assignment of accounts or chattel paper which is for the purpose of collection only, or a transfer of a right to payment under a contract to an assignee who is also to do the performance under the contract or a transfer of a single account to an assignee in whole or partial satisfaction of a preexisting indebtedness; or

(g) To any loan made by an insurance company pursuant to the

provisions of a policy or contract issued by it and upon the sole security of such policy or contract; or

(h) To a right represented by a judgment (other than a judgment taken in a right to payment which was collateral); or

(i) To any right of setoff; or

(j) Except to the extent that provision is made for fixtures in Section 9313, to the creation or transfer of an interest in or lien on real estate, including a lease or rents thereunder and to any interest of a lessor and lessee in any such lease or rents; or

(k) To a transfer in whole or in part of any claim arising out of tort.

(l) To any security interest created by the assignment of the benefits of any public construction contract under the Improvement Act of 1911 (Division 7 (commencing with Section 5000), Streets and Highways Code).

SEC. 5. Section 9105 of the Commercial Code is amended to read:

9105. (1) In this division unless the context otherwise requires:

(a) "Account debtor" means the person who is obligated on an account, chattel paper or general intangible;

(b) "Chattel paper" means a writing or writings which evidence both a monetary obligation and a security interest in or a lease of specific goods, but a charter or other contract involving the use or hire of a vessel is not chattel paper. When a transaction is evidenced both by such a security agreement or a lease and by an instrument or a series of instruments, the group of writings taken together constitutes chattel paper;

(c) "Collateral" means the property subject to a security interest, and includes accounts and chattel paper which have been sold;

(d) "Debtor" means the person who owes payment or other performance of the obligation secured, whether or not he owns or has rights in the collateral, and includes the seller of accounts or chattel paper. Where the debtor and the owner of the collateral are not the same person, the term "debtor" means the owner of the collateral in any provision of the division dealing with the collateral, the obligor in any provision dealing with the obligation, and may include both where the context so requires;

(e) "Deposit account" means a demand, time, savings, passbook or like account maintained with a bank, savings and loan association, credit union or like organization, other than an account evidenced by a negotiable certificate of deposit;

(f) "Document" means document of title as defined in the general definitions of Division 1 (Section 1201), and a receipt of the kind described in subdivision (2) of Section 7201;

(g) "Encumbrance" includes real estate mortgages and other liens on real estate and all other rights in real estate that are not ownership interests;

(h) "Goods" includes all things which are movable at the time the security interest attaches or which are fixtures (Section 9313), but does not include money, documents, instruments, accounts, chattel paper, general intangibles or minerals or the like (including oil and

gas) before extraction. "Goods" also includes standing timber which is to be cut and removed under a conveyance or contract for sale, the unborn young of animals, and growing crops;

(i) "Instrument" means a negotiable instrument (defined in Section 3104), or a security (defined in Section 8102) or any other writing which evidences a right to the payment of money and is not itself a security agreement or lease and is of a type which is in ordinary course of business transferred by delivery with any necessary indorsement or assignment;

(j) "Mortgage" means a consensual interest created by a real estate mortgage, a trust deed on real estate, or the like;

(k) An advance is made "pursuant to commitment" if the secured party has bound himself to make it, whether or not a subsequent event of default or other event not within his control has relieved or may relieve him from his obligation;

(l) "Security agreement" means an agreement which creates or provides for a security interest;

(m) "Secured party" means a lender, seller or other person in whose favor there is a security interest, including a person to whom accounts or chattel paper have been sold. When the holders of obligations issued under an indenture of trust, equipment trust agreement or the like are represented by a trustee or other person, the representative is the secured party.

(n) "Transmitting utility" means any person primarily engaged in the railroad, street railway or trolley bus business, the electric or electronics communications transmission business, the transmission of goods by pipeline, or the transmission or the production and transmission of electricity, steam, gas or water, or the provision of sewer service.

(o) "New value" includes new advances or loans made, or new obligations incurred, or the release of a valid and existing security interest, or the release of a claim to proceeds; but "new value" shall not be construed to include extension or renewals of existing obligations of the debtor, nor obligations substituted for such existing obligations.

(2) Other definitions applying to this division and the sections in which they appear are:

"Account." Section 9106.

"Attach." Section 9203.

"Consumer goods." Section 9109(1).

"Construction mortgage." Section 9313(1).

"Equipment." Section 9109(2).

"Farm products." Section 9109(3).

"Fixture." Section 9313(1).

"Fixture filing." Section 9313(1).

"General intangibles." Section 9106.

"Inventory." Section 9109(4).

"Lien creditor." Section 9301(3).

"Proceeds." Section 9306(1).

“Purchase money security interest.” Section 9107.

“United States.” Section 9103.

(3) The following definitions in other divisions apply to this division:

“Check.” Section 3104.

“Contract for sale.” Section 2106.

“Holder in due course.” Section 3302.

“Note.” Section 3104.

“Sale.” Section 2106.

(4) In addition Division 1 contains general definitions and principles of construction and interpretation applicable throughout this division.

SEC. 6. 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:

(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; or

(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; or

(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); or

(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. 7. Section 9313 is added to the Commercial Code, to read:

9313. (1) In this section and in the provisions of Chapter 4 (commencing with Section 9401) referring to fixture filing, unless the context otherwise requires

(a) Goods are "fixtures" when they become so related to particular real estate that an interest in them arises under real estate law.

(b) A "fixture filing" is the filing in the office where a mortgage on the real estate would be recorded of a financing statement covering goods which are or are to become fixtures and conforming to the requirements of subdivision (5) of Section 9402.

(c) A mortgage is a "construction mortgage" to the extent that it secures an obligation incurred for the construction of an improvement on land including the acquisition cost of the land, if the recorded writing so indicates.

(2) A security interest under this division may be created in goods which are fixtures or may continue in goods which become fixtures, but no security interest exists under this division in ordinary building materials incorporated into an improvement on land.

(3) This division does not prevent creation of an encumbrance upon fixtures pursuant to real estate law.

(4) A perfected security interest in fixtures has priority over the conflicting interest of an encumbrancer or owner of the real estate where

(a) The security interest is a purchase money security interest, the

interest of the encumbrancer or owner arises before the goods become fixtures, a fixture filing covering the fixtures is filed before the goods become fixtures or within 10 days thereafter, and the debtor has an interest of record in the real estate or is in possession of the real estate; or

(b) A fixture filing covering the fixtures is filed before the interest of the encumbrancer or owner is of record, the security interest has priority over any conflicting interest of a predecessor in title of the encumbrancer or owner, and the debtor has an interest of record in the real estate or is in possession of the real estate; or

(c) The fixtures are readily removable factory or office machines or readily removable replacements of domestic appliances which are consumer goods; or

(d) The conflicting interest is a lien on the real estate obtained by legal or equitable proceedings after the security interest was perfected by any method permitted by this division.

(5) A security interest in fixtures, whether or not perfected, has priority over the conflicting interest of an encumbrancer or owner of the real estate where

(a) The encumbrancer or owner has consented in writing to the security interest or has disclaimed an interest in the goods as fixtures; or

(b) The debtor has a right to remove the goods as against the encumbrancer or owner. If the debtor's right terminates, the priority of the security interest continues for a reasonable time.

(6) Notwithstanding paragraph (a) of subdivision (4) but otherwise subject to subdivisions (4) and (5), a security interest in fixtures is subordinate to a construction mortgage recorded before the goods become fixtures if the goods become fixtures before the completion of the construction. To the extent that it is given to refinance a construction mortgage, a mortgage has this priority to the same extent as the construction mortgage.

(7) In the cases not within the preceding subdivisions, a security interest in fixtures is subordinate to the conflicting interest of an encumbrancer or owner of the related real estate who is not the debtor.

(8) When the secured party has priority over all owners and encumbrancers of the real estate, he may, on default, subject to the provisions of Chapter 5 (commencing with Section 9501), remove his collateral from the real estate but he must reimburse any encumbrancer or owner of the real estate who is not the debtor and who has not otherwise agreed for the cost of repair of any physical injury, but not for any diminution in value of the real estate caused by the absence of the goods removed or by any necessity of replacing them. A person entitled to reimbursement may refuse permission to remove until the secured party gives adequate security for the performance of this obligation.

SEC. 8. Section 9401 of the Commercial Code is amended to read:

9401. (1) The proper place to file in order to perfect a security

interest is as follows:

(a) When the collateral is consumer goods, then in the office of the county recorder in the county of the debtor's residence or if the debtor is not a resident of this state, then in the office of county recorder of the county in which the goods are kept;

(b) When the collateral is crops growing or to be grown, timber to be cut or is minerals or the like (including oil and gas) or accounts subject to subdivision (5) of Section 9103, then in the office where a mortgage on the real estate would be recorded.

(c) In all other cases, in the office of the Secretary of State.

(2) A filing which is made in good faith in an improper place or not in all of the places required by this section is nevertheless effective with regard to any collateral as to which the filing complied with the requirements of this division and is also effective with regard to collateral covered by the financing statement against any person who has knowledge of the contents of such financing statement.

(3) A filing which is made in the proper place in this state continues effective even though the debtor's residence or place of business or the location of the collateral or its use, whichever controlled the original filing, is thereafter changed.

(4) The rules stated in Section 9103 determine whether filing is necessary in this state.

(5) Notwithstanding subdivision (1), and subject to subdivision (3) of Section 9302, the proper place to file in order to perfect a security interest in collateral, including fixtures, of a transmitting utility is the office of the Secretary of State. This filing also constitutes a fixture filing (Section 9313) as to the collateral described therein which is or is to become fixtures.

(6) For the purposes of this section, the residence of an organization is its place of business if it has one or its chief executive office if it has more than one place of business.

(7) The proper place to file a financing statement filed as a fixture filing is in the office where a mortgage on the real estate would be recorded.

SEC. 9. Section 9402 of the Commercial Code is amended to read:

9402. (1) A financing statement is sufficient if it gives the names of the debtor and the secured party, is signed by the debtor, gives an address of the secured party from which information concerning the security interest may be obtained, gives a mailing address of the debtor and contains a statement indicating the types, or describing the items, of collateral. A financing statement should include the debtor's trade name or style, if any, if known to the secured party, but a failure to include such trade name or style shall not under any circumstances affect the validity of the financing statement. A financing statement may be filed before a security agreement is made or a security interest otherwise attaches. When the financing statement covers crops growing or to be grown, the statement must also contain a description of the real estate concerned. When the

financing statement covers timber to be cut or covers minerals or the like (including oil and gas) or accounts subject to subdivision (5) of Section 9103, or when the financing statement is filed as a fixture filing (Section 9313) and the collateral is goods which are or are to become fixtures, the statement must also comply with subdivision (5). A copy of the security agreement is sufficient as a financing statement if it contains the above information and is signed by the debtor. A certified copy of a financing statement or security agreement is sufficient as a financing statement if the original thereof was filed in this state.

(2) A financing statement which otherwise complies with subdivision (1) is sufficient when it is signed by the secured party instead of the debtor if it is filed to perfect a security interest in or as a fixture filing covering:

(a) Collateral already subject to a security interest in another jurisdiction when it is brought into this state or when the debtor's location is changed to this state. Such a financing statement must state that the collateral was brought into this state or that the debtor's location was changed to this state under such circumstances; or

(b) Proceeds under Section 9306, if the security interest in the original collateral was perfected. Such a financing statement must describe the original collateral and give the date of filing and the file number of the prior financing statement; or

(c) Collateral as to which the filing has lapsed. Such a financing statement must include a statement to the effect that the prior financing statement has lapsed and give the date of filing and the file number of the prior financing statement; or

(d) Collateral acquired after a change of name, identity or corporate structure of the debtor (subdivision (7)). Such a financing statement must include a statement that the name, identity or corporate structure of the debtor has been changed and give the date of filing and the file number of the prior financing statement and the name of the debtor as shown in the prior financing statement.

(3) A form substantially as follows is sufficient to comply with subdivision (1):

Name of debtor (or assignor) \_\_\_\_\_

Address \_\_\_\_\_

Name of secured party (or assignee) \_\_\_\_\_

Address \_\_\_\_\_

Debtor's trade name or style, if any \_\_\_\_\_

1. This financing statement covers the following types (or items) of property: (Describe) \_\_\_\_\_

2. (If collateral is crops) The above-described crops are growing or are to be grown on: (Describe real estate) \_\_\_\_\_

3. (If applicable) The above goods are or are to become fixtures on\* (Describe real estate) \_\_\_\_\_

and this financing statement is to be recorded in the real estate records. (If the debtor does not have an interest of record) The name of a record owner is \_\_\_\_\_

4. (If products of collateral are claimed) Products of the collateral are also covered.

(Use whichever is applicable)	Signature of debtor (or assignor)
	Signature of secured party (or assignee)

\*Where appropriate substitute either "The above timber is standing on . . ." or "The above mineral or the like (including oil and gas) or accounts will be financed at the wellhead or minehead of the well or mine located on . . ."

(4) A financing statement may be amended by filing a writing signed by both the debtor and the secured party, or by the secured party alone in the case of an amendment pursuant to subdivision (7). An amendment does not extend the period of effectiveness of a financing statement. If any amendment adds collateral, it is effective as to the added collateral only from the filing date of the amendment. In this division, unless the context otherwise requires, the term "financing statement" means the original financing statement and any amendments.

(5) A financing statement covering timber to be cut or covering minerals or the like (including oil and gas) or accounts subject to subdivision (5) of Section 9103, or a financing statement filed as a fixture filing (Section 9313) where the debtor is not a transmitting utility, must show that it covers this type of collateral, must recite that it is to be recorded in the real estate records, and the financing statement must contain a description of the real estate sufficient if it were contained in a mortgage of the real estate to give constructive notice of the mortgage under the law of this state. If the debtor does not have an interest of record in the real estate, the financing statement must show the name of a record owner.

(6) A mortgage is effective as a financing statement filed as a fixture filing from the date of its recording if

- (a) The goods are described in the mortgage by item or type; and
- (b) The goods are or are to become fixtures related to the real estate described in the mortgage; and
- (c) The mortgage complies with the requirements for a financing statement in this section other than a recital that it is to be filed in the real estate records; and
- (d) The mortgage is duly recorded.

No fee with reference to the financing statement is required other than the regular recording and satisfaction fees with respect to the mortgage.

(7) A financing statement sufficiently shows the name of the debtor if it gives the individual, partnership or corporate name of the

debtor, whether or not it adds other trade names or names of partners. Where the debtor so changes his name or in the case of an organization its name, identity or corporate structure that a filed financing statement becomes seriously misleading, the filing is not effective to perfect a security interest in collateral acquired by the debtor more than four months after the change, unless a new appropriate financing statement or an appropriate amendment to the filed financing statement is filed before the acquisition of the collateral by the debtor. A filed financing statement remains effective with respect to collateral transferred by the debtor even though the secured party knows of or consents to the transfer.

(8) A financing statement substantially complying with the requirements of this section is effective even though it contains minor errors which are not seriously misleading.

SEC. 10. Section 9403 of the Commercial Code is amended to read:

9403. (1) Presentation for filing of a financing statement, tender of the filing fee and acceptance of the statement by the filing officer constitutes filing under this division.

(2) Except as provided in subdivision (6), a filed financing statement is effective for a period of five years from the date of filing. The effectiveness of a filed financing statement lapses on the expiration of such five-year period unless a continuation statement is filed prior to the lapse. If a security interest perfected by filing exists at the time insolvency proceedings are commenced by or against the debtor, the security interest remains perfected until termination of the insolvency proceedings and thereafter for a period of 60 days or until expiration of the five-year period, whichever occurs later. Upon such lapse the security interest becomes unperfected unless it is perfected without filing. If the security interest becomes unperfected upon lapse, it is deemed to have been unperfected as against a person who became a purchaser or lien creditor before lapse. If a fixture filing is effective at the time insolvency proceedings are commenced by or against the debtor, the fixture filing remains effective until termination of the insolvency proceedings and thereafter for a period of 60 days or until expiration of the five-year period or termination pursuant to subdivision (6), whichever occurs later. Upon lapse of a fixture filing, it is deemed to have been ineffective as against a person who became a purchaser or lien creditor before lapse.

(3) A continuation statement may be filed by the secured party of record within six months prior to the expiration of the five-year period specified in subdivision (2). Any such continuation statement must be signed by the secured party of record, identify the original statement by giving the date and the names of the parties thereto and the file number thereof and state that the original statement is continued. Upon timely filing of the continuation statement, the effectiveness of the original statement is continued for five years after the last date to which the filing was effective whereupon it

lapses in the same manner as provided in subdivision (2) unless another continuation statement is filed prior to such lapse. Succeeding continuation statements may be filed in the same manner to continue the effectiveness of the original statement. The filing officer may remove a lapsed financing statement and related filings from the files and destroy them immediately if he has retained a microfilm or other photographic record, or in other cases after one year after the lapse. The filing officer shall so arrange matters by physical annexation of financing statements to continuation statements or other related filings, or by other means, that if he physically destroys the financing statements of a period more than five years past, those which have been continued by a continuation statement or which are still effective under subdivision (6) shall be retained. The filing officer shall not destroy a financing statement and related filings as to which he has received written notice that there is an action pending relative thereto or that insolvency proceedings have been commenced by or against the debtor.

(4) Except as provided in subdivision (7) a filing officer shall mark each financing statement with a consecutive file number and with the date and time of filing and shall hold the statement or a microfilm or other photographic copy thereof for public inspection. In addition the filing officer shall index the statement according to the name of the debtor and shall note in the index the file number and the address of the debtor given in this statement. The filing officer shall mark each continuation statement with the date and time of filing and shall index the same under the file number of the original financing statement.

(5) The uniform fee for filing, indexing and furnishing filing data (subdivision (1) of Section 9407) for an original financing statement, an amendment or a continuation statement shall be three dollars (\$3) if the statement is in the standard form prescribed by the Secretary of State and otherwise shall be four dollars (\$4).

(6) If the debtor is a transmitting utility (subdivision (5) of Section 9401) and a filed financing statement so states, it is effective until a termination statement is filed. A real estate mortgage which is effective as a fixture filing under subdivision (6) of Section 9402 remains effective as a fixture filing until the mortgage is released or satisfied of record or its effectiveness otherwise terminates as to the real estate.

(7) A financing or continuation statement covering collateral described in paragraph (b) of subdivision (1) of Section 9401 or filed as a fixture filing shall be recorded and indexed by the filing officer in the real property index of grantors under the name of the debtor and any owner of record shown on the financing statement. A financing or continuation statement so recorded and indexed and containing a description of real property affected thereby shall constitute constructive notice from the time of its acceptance for recording to any purchaser or encumbrancer of the real property of the security interest in such collateral.

SEC. 11. Section 9501 of the Commercial Code is amended to read:

9501. (1) When a debtor is in default under a security agreement, a secured party has the rights and remedies provided in this chapter and except as limited by subdivision (3) those provided in the security agreement. He may reduce his claim to judgment, foreclose or otherwise enforce the security interest by any available judicial procedure. If the collateral is documents the secured party may proceed either as to the documents or as to the goods covered thereby. A secured party in possession has the rights, remedies and duties provided in Section 9207. The rights and remedies referred to in this subdivision are cumulative.

(2) After default, the debtor has the rights and remedies provided in this chapter, those provided in the security agreement and those provided in Section 9207.

(3) To the extent that they give rights to the debtor and impose duties on the secured party, the rules stated in the subdivisions referred to below may not be waived or varied except as provided with respect to compulsory disposition of collateral (subdivision (3) of Section 9504 and Section 9505) and with respect to redemption of collateral (Section 9506) but the parties may by agreement determine the standards by which the fulfillment of these rights and duties is to be measured if such standards are not manifestly unreasonable:

(a) Subdivision (2) of Section 9502 and subdivision (2) of Section 9504 insofar as they require accounting for surplus proceeds of collateral;

(b) Subdivision (3) of Section 9504 and subdivision (1) of Section 9505 which deal with disposition of collateral;

(c) Subdivision (2) of Section 9505 which deals with acceptance of collateral as discharge of obligation;

(d) Section 9506 which deals with redemption of collateral; and

(e) Subdivision (1) of Section 9507 which deals with the secured party's liability for failure to comply with this chapter.

(4) If the security agreement covers both real property and personal property or fixtures (Section 9313(1)(a)), the secured party may proceed under this chapter as to the personal property or fixtures or he may proceed as to both the real property and the personal property or fixtures in accordance with his rights and remedies in respect of the real property in which case the provisions of this chapter do not apply.

(5) When a secured party has reduced his claim to judgment the lien of any levy which may be made upon his collateral by virtue of any execution based upon the judgment shall relate back to the date of the perfection of the security interest in such collateral. A judicial sale, pursuant to such execution, is a foreclosure of the security interest by judicial procedure within the meaning of this section, and the secured party may purchase at the sale and thereafter hold the collateral free of any other requirements of this division.

SEC. 12. Section 11109 is added to the Commercial Code, to read:  
11109. (1) The amendments to this code relating to fixtures adopted by the Legislature at the 1979-1980 Regular Session shall apply to security interests which attach on or after January 1, 1981, in goods which become fixtures on or after January 1, 1981.

(2) If the record of a mortgage of real estate would have been effective as a fixture filing of goods described therein if the amendments to this code relating to fixtures adopted by the Legislature at the 1979-1980 Regular Session had been in effect on the date of recording the mortgage, the mortgage shall be deemed effective as a fixture filing as to such goods under subdivision (6) of Section 9402 as of January 1, 1981.

SEC. 13. 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 Sections 2191.3, 2191.4, 6757, 7872, 8996, 10099, 11495, 16063, 16064, 18881 through 18883, inclusive, 26161 and 30322 of the Revenue and Taxation Code, and releases or subordinations executed pursuant to Sections 2191.4, 6758, 6759, 7873, 8997, 10100, 11496, 14307, 14308, 16066, 16067, 18884, 18885, 26162, 30323 and 30324 of the Revenue and Taxation Code, and Sections 1704 and 1705 of the Unemployment Insurance 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.

(6) A fixture filing as defined by paragraph (b) of subdivision (1) of Section 9313 of the Commercial Code.

(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. 14. Section 11496 of the Insurance Code, as amended by Assembly Bill 3343 of the 1979-80 Regular Legislative Session, is amended to read:

11496. Persons desiring to form a nonprofit hospital service corporation shall incorporate pursuant to the provisions of this chapter and the Nonprofit Hospital Service Plan Law (Article 4 (commencing with Section 10840) of Part 11 of Division 2 of Title 1 of the Corporations Code) and the provisions of the Nonprofit Public Benefit Corporation Law (Part 2 (commencing with Section 5110)

of Division 2 of Title 1 of the Corporations Code), or the Nonprofit Mutual Benefit Corporation Law (Part 3 (commencing with Section 7110) of Division 2 of Title 1 of the Corporations Code), so far as the provisions of the Nonprofit Corporation Law are applicable and not inconsistent with this chapter.

SEC. 15. Section 14 of this act shall only take effect if AB 3343 is also chaptered and this bill is chaptered last.

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## CHAPTER 1157

An act to amend Section 39363.5 of, and to repeal and add Section 39369.5 of, the Education Code, relating to school property.

[Approved by Governor September 27, 1980 Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. Section 39363.5 of the Education Code is amended to read:

39363.5. Except as provided for in Article 2 (commencing with Section 39030) of Chapter 1 of this part, the sale, or lease with an option to purchase, of real property by a school 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 in both of the following ways:

(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.

(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 public benefit corporations organized for charitable purposes which are subject to Part 2 (commencing with Section 5110), or Part 7 (commencing with Section 10200), 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 school 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 determine which of such offers to accept.

(c) Third, the property may be disposed of in any other manner authorized by law.

SEC. 1.5. Section 39363.5 of the Education Code is amended to read:

39363.5. Except as provided for in Article 2 (commencing with Section 39030) of Chapter 1 of this part, the sale or lease with an option to purchase of real property by a school 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 in both of the following ways:

(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.

(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 on or after January 1, 1980, as a public benefit corporation 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 school 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 determine which of such offers to accept.

(c) Third, the property may be disposed of in any other manner authorized by law.

SEC. 2. Section 39369.5 of the Education Code is repealed.

SEC. 3. Section 39369.5 is added to the Education Code, to read:

39369.5. (a) The governing board of a school district that intends to sell real property pursuant to this article shall take reasonable steps to ensure that the former owner from whom the district acquired the property receives notice of the public meeting prescribed by Section 39366, in writing, by certified mail, at least 60 days prior to the meeting.

(b) The governing board of a school district shall not be required to accord the former owner the right to purchase the property at the tentatively accepted highest bid price nor to offer to sell the property to the former owner at the tentatively accepted highest bid price.

SEC. 4. 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. 5. It is the intent of the Legislature, if this bill and Assembly Bill 3343 are both chaptered and become effective January 1, 1981, both bills amend Section 39363.5 of the Education Code, and this bill is chaptered after Assembly Bill 3343, that the amendments to Section 39363.5 proposed by both bills be given effect and incorporated in Section 39363.5 in the form set forth in Section 1.5 of this act. Therefore, Section 1.5 of this act shall become operative only if this bill and Assembly Bill 3343 are both chaptered and become

effective January 1, 1981, both amend Section 39363.5, and this bill is chaptered after Assembly Bill 3343, in which case Section 1 of this act shall not become operative.

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## CHAPTER 1158

An act to amend Sections 4359, 4458, 7020, and 7021 of the Civil Code, to amend Sections 527.6, 542, 546, 547, and 550 of the Code of Civil Procedure, and to amend Sections 1000.6, 1000.7, 1000.8, and 1000.9 of the Penal Code, relating to domestic violence.

[Approved by Governor September 27, 1980. Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. Section 4359 of the Civil Code is amended to read:  
4359. (a) During the pendency of any proceeding under Title 2 (commencing with Section 4400) or Title 3 (commencing with Section 4500) of this part, upon application of either party in the manner provided by Section 527 of the Code of Civil Procedure, the Superior Court may issue ex parte orders (1) restraining any person from transferring, encumbering, hypothecating, concealing, or in any way disposing of any property, real or personal, whether community, quasi-community, or separate, except in the usual course of business or for the necessities of life, and if the order is directed against a party, requiring him or her to notify the other party of any proposed extraordinary expenditures and to account to the court for all such extraordinary expenditures; (2) enjoining any party from contacting, molesting, attacking, striking, threatening, sexually assaulting, battering, or disturbing the peace of the other party, and, in the discretion of the court, upon a showing of good cause, other named family and household members; (3) excluding one party from the family dwelling or from the dwelling of the other, for the period of time and upon the conditions as the court may determine, regardless of which party holds legal or equitable title, or is the lessee of the dwelling, upon a showing that the party to be excluded has assaulted or threatens to assault the other party, and that physical or emotional harm would otherwise result to the other party or any person under the care, custody, or control of the other party, as provided in Section 5102; (4) determining the temporary custody of any minor children of the marriage, and the right of a party to visit the minor children upon the conditions as the court may determine; (5) determining the temporary use, possession, and control of real or personal property of the parties and the payment of any liens or encumbrances coming due during the pendency of the order; and (6) enjoining a party from specified behavior which the court determines is necessary to effectuate orders under paragraph

(2) or (3).

Any order issued pursuant to this section shall state on its face the date of expiration of the order.

The Judicial Council shall promulgate forms and instructions for applications for orders and orders granted pursuant to this section.

(b) The court shall order the party who obtained the order or the attorney for such party to deliver or the clerk to mail a copy of any order, or extension, modification or termination thereof, granted pursuant to subdivision (a), by the close of the business day on which the order, extension, modification, or termination was granted, and any subsequent proof of service thereof, to each local law enforcement agency designated by the party or the attorney for the party, having jurisdiction over the residence of the party and such other locations where the court determines that acts of domestic violence against the party are likely to occur. Each appropriate law enforcement agency shall make available through an existing system for verification, information as to the existence, terms and current status of any order issued pursuant to subdivision (a) to any law enforcement officer responding to the scene of reported domestic violence.

(c) Any willful and knowing violation of any order granted pursuant to paragraph (2), (3) or (6) of subdivision (a) shall be a misdemeanor punishable under Section 273.6 of the Penal Code.

SEC. 2. Section 4458 of the Civil Code is amended to read:

4458. A judgment entered pursuant to this part may include any orders issued pursuant to paragraphs (2) and (6) of subdivision (a) of Section 4359. Any such judgment shall state on its face (1) which provisions of the judgment are the orders, and (2) the date of expiration of the orders, which shall be one year from the date the judgment is issued unless extended by the court after notice and hearing. The judgments, or orders, or extensions thereof, shall be transmitted to law enforcement agencies in the manner provided by subdivision (b) of Section 4359. Any willful and knowing violation of any such order shall be a misdemeanor punishable under Section 273.6 of the Penal Code.

SEC. 3. Section 7020 of the Civil Code is amended to read:

7020. (a) During the pendency of any proceeding under this part, upon application in the manner provided by Section 527 of the Code of Civil Procedure by the party who has care, custody, and control of the minor child, the superior court may issue ex parte orders (1) enjoining any party from contacting, molesting, attacking, striking, threatening, sexually assaulting, battering, or disturbing the peace of the other party or the minor child; (2) excluding one party from the dwelling of the party who has care, custody and control of the child upon showing that the party to be excluded has assaulted or threatens to assault the other party or the minor child and that physical or emotional harm would otherwise result to the party or the minor child; and (3) enjoining a party from specified behavior which the court determines is necessary to

effectuate orders under paragraph (1) or (2). In the case in which a temporary restraining order is granted without notice, the matter shall be made returnable on an order requiring cause to be shown why the order should not be granted, on the earliest day that the business of the court will permit, but not later than 15 days or, if good cause appears to the court, 20 days from the date the temporary restraining order is granted. The court may on motion of the plaintiff or on its own motion shorten the time for service on the defendant of the order to show cause.

(b) The court may issue upon notice and a hearing any of the orders set forth in subdivision (a). Any restraining order granted pursuant to this subdivision shall remain in effect, in the discretion of the court, not to exceed 90 days, unless otherwise terminated by the court, extended by mutual consent of the parties or extended by further order of the court on the motion of any party. Any extension by mutual consent of the parties shall not exceed one year.

(c) Any order issued pursuant to subdivision (a) or (b) shall state on its face the date of expiration of the order.

(d) The court shall order the party who obtained the order or the attorney for the party to deliver or the clerk to mail a copy of any order, or extension, modification or termination thereof, granted pursuant to subdivision (a) or (b), by the close of the business day on which the order, extension, modification, or termination was granted, and any subsequent proof of service thereof, to each local law enforcement agency designated by the party or the attorney for the party, having jurisdiction over the residence of the party who has care, custody and control of the minor child and such other locations where the court determines that acts of domestic violence against the party and the minor child are likely to occur. Each appropriate law enforcement agency shall make available through an existing system for verification, information as to the existence, terms and current status of any order issued pursuant to subdivision (a) or (b) to any law enforcement officer responding to the scene of reported domestic violence.

(e) Any willful and knowing violation of any order granted pursuant to subdivision (a) or (b) shall be a misdemeanor punishable under Section 273.6 of the Penal Code.

SEC. 4. Section 7021 of the Civil Code is amended to read:

7021. A judgment entered under this part may include any orders issued pursuant to subdivision (a) or (b) of Section 7020. Any such judgment shall state on its face (1) which provisions of the judgment are such orders, and (2) the date of expiration of such orders, which shall be one year from the date the judgment is issued unless extended by the court after notice and hearing. The judgments, or orders, or extensions thereof shall be transmitted to law enforcement agencies in the manner provided by subdivision (d) of Section 7020. Any willful and knowing violation of any such order shall be a misdemeanor punishable under Section 273.6 of the Penal Code.

SEC. 5. Section 527.6 of the Code of Civil Procedure is amended

to read:

527.6. (a) A person who has suffered harassment as defined in subdivision (b) may seek a temporary restraining order, and an injunction prohibiting harassment as provided in this section.

(b) For the purposes of this section, "harassment" is a knowing and willful course of conduct directed at a specific person which seriously alarms, annoys or harasses the person, and which serves no legitimate purpose. The course of conduct must be such as would cause a reasonable person to suffer substantial emotional distress, and must actually cause substantial emotional distress to the plaintiff. "Course of conduct" is a pattern of conduct composed of a series of acts over a period of time, however short, evidencing a continuity of purpose. Constitutionally protected activity is not included within the meaning of "course of conduct."

(c) Upon filing a petition for an injunction under this section, the plaintiff may obtain a temporary restraining order in accordance with the provisions of subdivision (a) of Section 527 of the Code of Civil Procedure. A temporary restraining order may be granted with or without notice upon an affidavit which, to the satisfaction of the court, shows reasonable proof of harassment of the plaintiff by the defendant, and that great or irreparable harm would result to the plaintiff. A temporary restraining order granted under this section shall remain in effect, at the court's discretion, for a period not to exceed 15 days, unless otherwise modified or terminated by the court.

(d) Within 15 days of the filing of the petition, a hearing shall be held on the petition for the injunction. The defendant may file a response which explains, excuses, justifies or denies the alleged harassment. At the hearing, the judge shall receive such testimony as is relevant, and may make an independent inquiry. If the judge finds by clear and convincing evidence that unlawful harassment exists, an injunction shall issue prohibiting the harassment. An injunction issued pursuant to this section shall have a duration of not more than three years. At any time within the three months before the expiration of the injunction, the plaintiff may apply for a renewal of the injunction by filing a new petition for an injunction under this section.

(e) Nothing in this section shall preclude either party from representation by private counsel or from appearing on his or her own behalf.

(f) Upon filing of a petition for an injunction under this section, the defendant shall be personally served with a copy of the petition, temporary restraining order, if any, and notice of hearing of the petition.

(g) The court shall order the plaintiff or the attorney for the plaintiff to deliver or the clerk to mail a copy of each temporary restraining order or injunction or modification or termination thereof, granted under this section, by the close of the business day on which the order was granted, to the law enforcement agencies

within the court's discretion as are requested by the plaintiff. Each appropriate law enforcement agency shall make available information as to the existence and current status of these orders to law enforcement officers responding to the scene of reported harassment.

(h) The prevailing party in any action brought under this section may be awarded court costs and attorney's fees, if any.

(i) Any willful disobedience of any temporary restraining order or injunction granted under this section shall be a misdemeanor pursuant to Section 166 of the Penal Code.

(j) This section shall not apply to any action covered by Section 4359 or 7020 of the Civil Code, or by Chapter 4 (commencing with Section 540) of this title, or by Title 1.6C (commencing with Section 1788) of the Civil Code. Nothing in this section shall preclude a plaintiff's right to utilize other existing civil remedies.

(k) The Judicial Council shall promulgate forms and instructions therefor, rules for service of process, scheduling of hearings, and any other matters required by this section. The petition and response forms shall be simple and concise.

SEC. 6. Section 542 of the Code of Civil Procedure is amended to read:

542. As used in this chapter, the following words have the following meanings:

(a) "Abuse" means intentionally or recklessly causing or attempting to cause bodily injury, or placing another person in reasonable apprehension of imminent serious bodily injury to himself, herself, or another.

(b) "Domestic violence" is abuse perpetrated against a family or household member.

(c) "Family or household member" means a spouse, former spouse, parent, child, any other person related by consanguinity or affinity within the second degree, or any other person who regularly resides in the household, or who within the last six months regularly resided in the household.

SEC. 7. Section 546 of the Code of Civil Procedure is amended to read:

546. The court may issue ex parte any of the orders set forth in subdivision (a) of Section 4359 of the Civil Code, or in the case of a nonmarital relationship between the plaintiff and the defendant any of the orders set forth in paragraphs (2), (3) and (6) of subdivision (a) of Section 4359 of the Civil Code and where there is a minor child of the plaintiff and the defendant an order determining the temporary custody of the child. In the case in which a temporary restraining order is granted without notice, the matter shall be made returnable on an order requiring cause to be shown why the order should not be granted, on the earliest day that the business of the court will permit, but not later than 15 days or, if good cause appears to the court, 20 days from the date the temporary restraining order is granted. The court may on motion of the plaintiff or on its own

motion shorten the time for service on the defendant of the order to show cause.

The court may issue an ex parte order pursuant to this article, excluding one party from a residence or dwelling only when the affidavit in support of an application for the order affirmatively shows facts sufficient for the court to ascertain that the plaintiff has a right under color of law to possession of the premises.

SEC. 8. Section 547 of the Code of Civil Procedure is amended to read:

547. The court may issue upon notice and a hearing, any of the following orders:

(a) Any of the orders set forth in subdivision (a) of Section 4359 of the Civil Code, or in the case of a nonmarital relationship between the plaintiff and the defendant, any of the orders set forth in paragraphs (2), (3), (5) and (6) of subdivision (a) of Section 4359 of the Civil Code and where there is a minor child of the plaintiff and the defendant an order determining the temporary custody of the child.

(b) Where there exists a presumption that the defendant is the natural father of any minor child, pursuant to Section 7004 of the Civil Code, and the child is in the custody of the plaintiff, the court may order a party to pay any amount necessary for the support and maintenance of the child if such an order would otherwise be authorized in an action brought pursuant to Part 7 of Division 4 (commencing with Section 7000) of the Civil Code; provided, that any order pursuant to this subdivision shall be without prejudice in any such action.

(c) An order that restitution be paid to the family or household member for loss of earnings and out-of-pocket expenses, including, but not limited to, expenses for medical care and temporary housing, incurred as a direct result of the abuse or any actual physical injuries sustained therefrom, or an order that restitution be paid by plaintiff for out-of-pocket expenses incurred by a party as a result of any order issued ex parte which is found by the court to have been issued upon facts shown at a noticed hearing to be insufficient to support the order.

(d) An order requiring any party to participate in counseling where the parties so stipulate or where it is shown that the parties intend to continue to reside in the same household or have continued to reside in the same household after previous instances of domestic violence.

(e) An order for the payment of attorneys' fees and costs of the prevailing party.

SEC. 9. Section 550 of the Code of Civil Procedure is amended to read:

550. The court shall order the plaintiff or the attorney for the plaintiff to deliver or the county clerk to mail a copy of any order, or extension, modification or termination thereof granted pursuant to this chapter, by the close of the business day on which the order,

extension, modification or termination was granted, and any subsequent proof of service thereof, to each local law enforcement agency designated by the plaintiff or the attorney for the plaintiff, having jurisdiction over the residence of the plaintiff and such other locations where the court determines that acts of domestic violence against the plaintiff are likely to occur. Each appropriate law enforcement agency shall make available through an existing system for verification, information as to the existence, terms and current status of any order issued pursuant to this chapter to any law enforcement officer responding to the scene of reported domestic violence.

SEC. 10. Section 1000.6 of the Penal Code is amended to read:

1000.6. (a) Upon the determination of the judge presiding, this chapter shall apply whenever a case is before the court upon an accusatory pleading for an act of domestic violence which is charged as, or reduced to, a misdemeanor and all of the following apply to the defendant:

(1) The defendant has no conviction for any offense involving violence within seven years prior to the alleged commission of the charged divertible offense.

(2) The defendant's record does not indicate that probation or parole has ever been revoked without thereafter being completed.

(3) The defendant has not been diverted pursuant to this chapter within five years prior to the charged divertible offense.

Notwithstanding the foregoing, the provisions of this chapter are not applicable to a person who is charged with a violation of subdivision (a) of Section 245, Section 273.5, as added by Chapter 912 of the Statutes of 1977.

(b) The prosecuting attorney shall, and the defense attorney may, review his or her file to determine whether or not paragraphs (1) to (3), inclusive, of subdivision (a) are applicable to the defendant. If the defendant is found eligible, the prosecuting attorney shall notify the court, the defendant, and the defense attorney, and the defense attorney may move that the defendant be diverted pursuant to this chapter. If the defendant is found by the prosecuting attorney to be ineligible for diversion, the prosecuting attorney shall file with the court a declaration in writing or state for the record the grounds upon which the determination is based, and shall make this information available to the defendant and his or her attorney.

(c) No admission of guilt shall be required of a defendant in order for this chapter to be applicable.

(d) As used in this chapter "domestic violence" means intentionally or recklessly causing or attempting to cause bodily injury to a family or household member or placing a family or household member in reasonable apprehension of imminent serious bodily injury to himself or herself or another.

(e) As used in this chapter "family or household member" means a spouse, former spouse, parent, any other person related by consanguinity, or any person who regularly resides or who within the

previous six months regularly resided in the household. "Family or household member" does not include a child.

SEC. 11. Section 1000.7 of the Penal Code is amended to read:

1000.7. (a) If the prosecuting attorney determines that this chapter may be applicable to the defendant, he or she shall advise the defendant and his or her attorney in writing of such determination. This notification shall include:

(1) A full description of the procedures of diversionary investigation.

(2) A general explanation of the roles and authorities of the court, the prosecuting attorney, the probation department, and the community program in the diversion process.

(3) A clear statement that the court may decide in a hearing not to divert such person and that he or she may have to stand trial for the alleged offense.

(4) A clear statement that, for the period of diversion, the divertee may be enjoined from contacting, and shall be enjoined from annoying, molesting, attacking, striking, threatening, harrasing, sexually assaulting, battering, or disturbing the peace of, the victim.

(5) A clear statement that should such person fail in meeting the terms of his or her diversion, or should he or she be convicted of any offense involving violence, he or she may be required, after a court hearing, to stand trial for the original alleged offense.

(6) An explanation of criminal record retention and disposition resulting from participation in the diversion and the divertee's rights relative to answering questions about his or her arrest and diversion following successful completion of the diversion program.

(b) If the defendant consents and waives his or her right to a speedy trial the court shall refer the case to the probation department. The probation department shall make an investigation and take into consideration the defendant's age, employment and service records, educational background, community and family ties, prior incidents of violence, treatment history, if any, demonstrable motivation, and other mitigating factors in determining whether the defendant is a person who would be benefited by education, treatment, or rehabilitation. The probation department shall also determine which community programs the defendant would benefit from and which of those programs would accept the defendant. The probation department shall report its findings and recommendation to the court.

SEC. 12. Section 1000.8 of the Penal Code is amended to read:

1000.8. (a) The court shall hold a hearing and, after consideration of the probation department's report and any other information considered by the court to be relevant to its decision, shall determine if the defendant consents to further proceedings under this chapter and waives his or her right to a speedy trial and if the defendant should be diverted and referred for counseling. The court, in determining the defendant's eligibility for diversion, shall

consider the nature and extent of the injury inflicted upon the victim, any prior incidents of domestic violence by the defendant, and any factors which would adversely influence the likelihood of successful completion of the diversion program. If the court does not deem the defendant a person who would be benefited by diversion, or if the defendant does not consent to participate, the proceedings shall continue as in any other case. If the court orders a defendant to be diverted, the court shall make inquiry into the financial condition of the defendant and upon a finding that the defendant is able in whole or part to pay the expense of such counseling the court may order him or her to pay for all or part of such expense.

(b) At such time that the defendant's case is diverted, any bail bond or undertaking, or deposit in lieu thereof, on file by or on behalf of him or her shall be exonerated, and the court shall enter an order so directing.

(c) The period during which further criminal proceedings against a person may be diverted pursuant to this chapter shall be for no less than six months nor longer than two years.

The court shall set forth in writing or state on the record its reason for granting or denying diversion. The court's decision in such matter shall be final and shall not constitute an appealable order.

SEC. 13. Section 1000.9 of the Penal Code is amended to read:

1000.9. If it appears to the prosecuting attorney, the court, or the probation department that the divertee is performing unsatisfactorily in the assigned program, or that the divertee is not benefiting from counseling, or that he or she is convicted of any offense involving violence, after notice to the divertee, and upon request of the probation officer or on its own motion, the court shall hold a hearing to determine whether the criminal proceedings should be reinstated. If the court finds that the divertee is not performing satisfactorily in the assigned program, or that the divertee is not benefiting from diversion, or the court finds that the divertee has been convicted of a crime as indicated above, the criminal case shall be referred back to the court for resumption of the criminal proceedings. If the divertee has performed satisfactorily during the period of diversion, at the end of the period of diversion, the criminal charges shall be dismissed.

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## CHAPTER 1159

An act to amend Section 10850 of, and to add Sections 14100.2 and 14100.3 to, the Welfare and Institutions Code, to amend Section 10503 of, and to add Sections 10503.1, 10520, 10527.1, 10527.2, 10527.3, and 10527.4 to the Government Code, and to repeal Section 5019.26 of the Public Resources Code, and to amend Sections 2 and 8 of, and repeal Section 10 of, Chapter 78 of the Statutes of 1917, and to amend Section 10 of Chapter 138 of the Statutes of 1964, and to repeal

Section 423.8 of Chapter 359 of the Statutes of 1977, and to amend Section 3 of, and repeal Section 4 of, Chapter 743 of the Statutes of 1978, relating to the Joint Legislative Audit Committee, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1980 Filed with  
Secretary of State September 29, 1980 ]

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

SECTION 1. Section 10850 of the Welfare and Institutions Code is amended to read:

10850. (a) Except as otherwise provided in this section, all applications and records concerning any individual made or kept by any public officer or agency in connection with the administration of any provision of this code relating to any form of public social services for which grants-in-aid are received by this state from the United States government shall be confidential, and shall not be open to examination for any purpose not directly connected with the administration of such program, or any investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of any such program. The disclosure of any information which identifies by name or address any applicant for or recipient of such grants-in-aid to any committee or legislative body is prohibited, except as provided in subdivision (b).

(b) Except as otherwise provided in this section, no person shall publish or disclose or permit or cause to be published or disclosed any list of persons receiving public social services. Any county welfare department in this state may release lists of applicants for, or recipients of, public social services, to any other county welfare department or the State Department of Social Services, and such lists or any other records shall be released when requested by any county welfare department or the State Department of Social Services. Such lists or other records shall only be used for purposes directly connected with the administration of public social services. Except for such purposes, no person shall publish, disclose, or use or permit or cause to be published, disclosed, or used any confidential information pertaining to an applicant or recipient.

Any county welfare department and the State Department of Social Services shall provide any governmental entity which is authorized by law to conduct an audit or similar activity in connection with the administration of public social services, including any committee or legislative body so authorized, with access to any public social service applications and records described in subdivision (a) to the extent of such authorization. Such committees, legislative bodies and other entities may only request or use such records for the purpose of investigating the administration of public social services, and shall not disclose the identity of any applicant or recipient except in the case of a criminal or civil

proceeding conducted in connection with the administration of public social services.

However, this section shall not prohibit the furnishing of such information to other public agencies to the extent required for verifying eligibility or for other purposes directly connected with the administration of public social services, or to county superintendents of schools or superintendents of school districts only as necessary for the administration of federally assisted programs providing assistance in cash or in-kind or services directly to individuals on the basis of need. Any person knowingly and intentionally violating the provisions of this subdivision is guilty of a misdemeanor.

(c) The State Department of Social Services shall inform the Department of Motor Vehicles of the names, birth dates, and addresses of all applicants or recipients of aid to the blind. The Department of Motor Vehicles, upon receipt of such information, shall inform the State Department of Social Services of any such applicant or recipient of aid to the blind who holds a valid California driver's license.

(d) The State Department of Social Services may make rules and regulations governing the custody, use and preservation of all records, papers, files and communications pertaining to the administration of the laws relating to public social services under their jurisdiction. The rules and regulations shall be binding on all departments, officials and employees of the state, or of any political subdivision of the state and may provide for giving information to or exchanging information with agencies, public or political subdivisions of the state, and may provide for giving information to or exchanging information with agencies, public or private, which are engaged in planning, providing or securing social services for or in behalf of recipients or applicants; and for making case records available for research purposes, provided, that such research will not result in the disclosure of the identity of applicants for or recipients of public social services.

(e) Any person, including every public officer and employee, who knowingly secures or possesses, other than in the course of official duty, an official list or a list compiled from official sources, published or disclosed in violation of this section, of persons who have applied for or who have been granted any form of public social services for which state or federal funds are made available to the counties is guilty of a misdemeanor.

(f) The provisions of this section shall be operative only to the extent permitted by federal law and shall not apply to, but exclude, Chapter 7 (commencing with Section 14000) of this division, entitled "Basic Health Care", and for which a grant-in-aid is received by the state under Title XIX of the Social Security Act.

SEC. 1.2. Section 10850 of the Welfare and Institutions Code is amended to read:

10850. (a) Except as otherwise provided in this section, all applications and records concerning any individual made or kept by

any public officer or agency in connection with the administration of any provision of this code relating to any form of public social services for which grants-in-aid are received by this state from the United States government shall be confidential, and shall not be open to examination for any purpose not directly connected with the administration of such program, or any investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of any such program. The disclosure of any information which identifies by name or address any applicant for or recipient of such grants-in-aid to any committee or legislative body is prohibited, except as provided in subdivision (b).

(b) Except as otherwise provided in this section, no person shall publish or disclose or permit or cause to be published or disclosed any list of persons receiving public social services. Any county welfare department in this state may release lists of applicants for, or recipients of, public social services, to any other county welfare department or the State Department of Social Services, and such lists or any other records shall be released when requested by any county welfare department or the State Department of Social Services. Such lists or other records shall only be used for purposes directly connected with the administration of public social services. Except for such purposes, no person shall publish, disclose, or use or permit or cause to be published, disclosed, or used any confidential information pertaining to an applicant or recipient.

Any county welfare department and the State Department of Social Services shall provide any governmental entity which is authorized by law to conduct an audit or similar activity in connection with the administration of public social services, including any committee or legislative body so authorized, with access to any public social service applications and records described in subdivision (a) to the extent of such authorization. Such committees, legislative bodies and other entities may only request or use such records for the purpose of investigating the administration of public social services, and shall not disclose the identity of any applicant or recipient except in the case of a criminal or civil proceeding conducted in connection with the administration of public social services.

However, this section shall not prohibit the furnishing of such information to other public agencies to the extent required for verifying eligibility or for other purposes directly connected with the administration of public social services, or to county superintendents of schools or superintendents of school districts only as necessary for the administration of federally assisted programs providing assistance in cash or in-kind or services directly to individuals on the basis of need. Any person knowingly and intentionally violating the provisions of this subdivision is guilty of a misdemeanor.

(c) The State Department of Social Services shall inform the Department of Motor Vehicles of the names, birth dates, and addresses of all applicants or recipients of aid to the blind. The

Department of Motor Vehicles, upon receipt of such information, shall inform the State Department of Social Services of any such applicant or recipient of aid to the blind who holds a valid California driver's license.

(d) The State Department of Social Services may make rules and regulations governing the custody, use and preservation of all records, papers, files and communications pertaining to the administration of the laws relating to public social services under their jurisdiction. The rules and regulations shall be binding on all departments, officials and employees of the state, or of any political subdivision of the state and may provide for giving information to or exchanging information with agencies, public or political subdivisions of the state, and may provide for giving information to or exchanging information with agencies, public or private, which are engaged in planning, providing or securing social services for or in behalf of recipients or applicants; and for making case records available for research purposes, provided, that such research will not result in the disclosure of the identity of applicants for or recipients of public social services.

(e) Any person, including every public officer and employee, who knowingly secures or possesses, other than in the course of official duty, an official list or a list compiled from official sources, published or disclosed in violation of this section, of persons who have applied for or who have been granted any form of public social services for which state or federal funds are made available to the counties is guilty of a misdemeanor.

(f) This section shall not be construed to prohibit an employee of a county welfare department from disclosing confidential information concerning a public social services applicant or recipient to a state or local law enforcement agency investigating or gathering information regarding a criminal act committed in a welfare department office or against any county or state welfare worker while involved in the administration of public social services. Such criminal acts shall include only those which are in violation of state or local law. Disclosure of confidential information pursuant to this subdivision shall be limited to the applicant's or recipient's name, physical description, and address.

(g) The provisions of this section shall be operative only to the extent permitted by federal law and shall not apply to, but exclude, Chapter 7 (commencing with Section 14000) of this division, entitled "Basic Health Care", and for which a grant-in-aid is received by the state under Title XIX of the Social Security Act.

SEC. 1.3. Section 10850 of the Welfare and Institutions Code is amended to read:

10850. (a) Except as otherwise provided in this section, all applications and records concerning any individual made or kept by any public officer or agency in connection with the administration of any provision of this code relating to any form of public social services for which grants-in-aid are received by this state from the

United States government shall be confidential, and shall not be open to examination for any purpose not directly connected with the administration of such program, or any investigation, prosecution, or criminal or civil proceeding conducted in connection with the administration of any such program. The disclosure of any information which identifies by name or address any applicant for or recipient of such grants-in-aid to any committee or legislative body is prohibited, except as provided in subdivision (b).

(b) Except as otherwise provided in this section, no person shall publish or disclose or permit or cause to be published or disclosed any list of persons receiving public social services. Any county welfare department in this state may release lists of applicants for, or recipients of, public social services, to any other county welfare department or the State Department of Social Services, and such lists or any other records shall be released when requested by any county welfare department or the State Department of Social Services. Such lists or other records shall only be used for purposes directly connected with the administration of public social services. Except for such purposes, no person shall publish, disclose, or use or permit or cause to be published, disclosed, or used any confidential information pertaining to an applicant or recipient.

An individual member of a county board of supervisors may, pursuant to an inquiry or complaint, receive from the county welfare department factual information relating to eligibility of the applicant or recipient. The release of such factual information to the member of the county board of supervisors shall be for the sole purpose of ensuring that appropriate administrative action has been taken with regard to the inquiry or complaint and in no event shall such information be released to any person except as provided by law. No names obtained through such access to such records or applications as provided in this section shall be used for any commercial or political purposes.

Any county welfare department and the State Department of Social Services shall provide any governmental entity which is authorized by law to conduct an audit or similar activity in connection with the administration of public social services, including any committee or legislative body so authorized, with access to any public social service applications and records described in subdivision (a) to the extent of such authorization. Such committees, legislative bodies and other entities may only request or use such records for the purpose of investigating the administration of public social services, and shall not disclose the identity of any applicant or recipient except in the case of a criminal or civil proceeding conducted in connection with the administration of public social services.

However, this section shall not prohibit the furnishing of such information to other public agencies to the extent required for verifying eligibility or for other purposes directly connected with the administration of public social services, or to county superintendents

of schools or superintendents of school districts only as necessary for the administration of federally assisted programs providing assistance in cash or in-kind or services directly to individuals on the basis of need. Any person knowingly and intentionally violating the provisions of this subdivision is guilty of a misdemeanor.

(c) The State Department of Social Services shall inform the Department of Motor Vehicles of the names, birth dates, and addresses of all applicants or recipients of aid to the blind. The Department of Motor Vehicles, upon receipt of such information, shall inform the State Department of Social Services of any such applicant or recipient of aid to the blind who holds a valid California driver's license.

(d) The State Department of Social Services may make rules and regulations governing the custody, use and preservation of all records, papers, files and communications pertaining to the administration of the laws relating to public social services under their jurisdiction. The rules and regulations shall be binding on all departments, officials and employees of the state, or of any political subdivision of the state and may provide for giving information to or exchanging information with agencies, public or political subdivisions of the state, and may provide for giving information to or exchanging information with agencies, public or private, which are engaged in planning, providing or securing social services for or in behalf of recipients or applicants; and for making case records available for research purposes, provided, that such research will not result in the disclosure of the identity of applicants for or recipients of public social services.

(e) Any person, including every public officer and employee, who knowingly secures or possesses, other than in the course of official duty, an official list or a list compiled from official sources, published or disclosed in violation of this section, of persons who have applied for or who have been granted any form of public social services for which state or federal funds are made available to the counties is guilty of a misdemeanor.

(f) The provisions of this section shall be operative only to the extent permitted by federal law and shall not apply to, but exclude, Chapter 7 (commencing with Section 14000) of this division, entitled "Basic Health Care", and for which a grant-in-aid is received by the state under Title XIX of the Social Security Act.

SEC. 1.4. Section 10850 of the Welfare and Institutions Code is amended to read:

10850. (a) Except as otherwise provided in this section, all applications and records concerning any individual made or kept by any public officer or agency in connection with the administration of any provision of this code relating to any form of public social services for which grants-in-aid are received by this state from the United States government shall be confidential, and shall not be open to examination for any purpose not directly connected with the administration of such program, or any investigation, prosecution, or

criminal or civil proceeding conducted in connection with the administration of any such program. The disclosure of any information which identifies by name or address any applicant for or recipient of such grants-in-aid to any committee or legislative body is prohibited, except as provided in subdivision (b).

(b) Except as otherwise provided in this section, no person shall publish or disclose or permit or cause to be published or disclosed any list of persons receiving public social services. Any county welfare department in this state may release lists of applicants for, or recipients of, public social services, to any other county welfare department or the State Department of Social Services, and such lists or any other records shall be released when requested by any county welfare department or the State Department of Social Services. Such lists or other records shall only be used for purposes directly connected with the administration of public social services. Except for such purposes, no person shall publish, disclose, or use or permit or cause to be published, disclosed, or used any confidential information pertaining to an applicant or recipient.

Any county welfare department and the State Department of Social Services shall provide any governmental entity which is authorized by law to conduct an audit or similar activity in connection with the administration of public social services, including any committee or legislative body so authorized, with access to any public social service applications and records described in subdivision (a) to the extent of such authorization. Such committees, legislative bodies and other entities may only request or use such records for the purpose of investigating the administration of public social services, and shall not disclose the identity of any applicant or recipient except in the case of a criminal or civil proceeding conducted in connection with the administration of public social services.

An individual member of a county board of supervisors may, pursuant to an inquiry or complaint, receive from the county welfare department factual information relating to eligibility of the applicant or recipient. The release of such factual information to the member of the county board of supervisors shall be for the sole purpose of ensuring that appropriate administrative action has been taken with regard to the inquiry or complaint and in no event shall such information be released to any person except as provided by law. No names obtained through such access to such records or applications as provided in this section shall be used for any commercial or political purposes.

However, this section shall not prohibit the furnishing of such information to other public agencies to the extent required for verifying eligibility or for other purposes directly connected with the administration of public social services, or to county superintendents of schools or superintendents of school districts only as necessary for the administration of federally assisted programs providing assistance in cash or in-kind or services directly to individuals on the

basis of need. Any person knowingly and intentionally violating the provisions of this subdivision is guilty of a misdemeanor.

(c) The State Department of Social Services shall inform the Department of Motor Vehicles of the names, birth dates, and addresses of all applicants or recipients of aid to the blind. The Department of Motor Vehicles, upon receipt of such information, shall inform the State Department of Social Services of any such applicant or recipient of aid to the blind who holds a valid California driver's license.

(d) The State Department of Social Services may make rules and regulations governing the custody, use and preservation of all records, papers, files and communications pertaining to the administration of the laws relating to public social services under their jurisdiction. The rules and regulations shall be binding on all departments, officials and employees of the state, or of any political subdivision of the state and may provide for giving information to or exchanging information with agencies, public or political subdivisions of the state, and may provide for giving information to or exchanging information with agencies, public or private, which are engaged in planning, providing or securing social services for or in behalf of recipients or applicants; and for making case records available for research purposes, provided, that such research will not result in the disclosure of the identity of applicants for or recipients of public social services.

(e) Any person, including every public officer and employee, who knowingly secures or possesses, other than in the course of official duty, an official list or a list compiled from official sources, published or disclosed in violation of this section, of persons who have applied for or who have been granted any form of public social services for which state or federal funds are made available to the counties is guilty of a misdemeanor.

(f) This section shall not be construed to prohibit an employee of a county welfare department from disclosing confidential information concerning a public social services applicant or recipient to a state or local law enforcement agency investigating or gathering information regarding a criminal act committed in a welfare department office or against any county or state welfare worker while involved in the administration of public social services. Such criminal acts shall include only those which are in violation of state or local law. Disclosure of confidential information pursuant to this subdivision shall be limited to the applicant's or recipient's name, physical description, and address.

(g) The provisions of this section shall be operative only to the extent permitted by federal law and shall not apply to, but exclude, Chapter 7 (commencing with Section 14000) of this division, entitled "Basic Health Care", and for which a grant-in-aid is received by the state under Title XIX of the Social Security Act.

SEC. 2. Section 14100.2 is added to the Welfare and Institutions Code, to read:

14100.2. (a) All types of information, whether written or oral, concerning a person, made or kept by any public officer or agency in connection with the administration of any provision of this chapter, Chapter 8 (commencing with Section 14200), or Chapter 8.7 (commencing with Section 14520) and for which a grant-in-aid is received by this state from the United States government pursuant to Title XIX of the Social Security Act shall be confidential, and shall not be open to examination other than for purposes directly connected with the administration of the Medi-Cal program.

(b) Except as provided in this section and to the extent permitted by federal law or regulation all information about applicants and recipients as provided for in subdivision (a) to be safeguarded includes, but is not limited to, names and addresses, medical services provided, social and economic conditions or circumstances, agency evaluation of personal information, and medical data, including diagnosis and past history of disease or disability.

(c) Purposes directly connected with the administration of the Medi-Cal Program, Chapter 8 (commencing with Section 14200), or Chapter 8.7 (commencing with Section 14520) encompass those administrative activities and responsibilities the State Department of Health Services and its agents are required to engage in to insure effective program operations. Such activities include but are not limited to: establishing eligibility and methods of reimbursement; determining the amount of medical assistance; providing services for recipients; conducting or assisting an investigation, prosecution, or civil or criminal proceeding related to the administration of the Medi-Cal Program; and conducting or assisting a legislative investigation or audit related to the administration of the Medi-Cal Program.

(d) Any officer, agent, or employee of the State Department of Health Services or of any public agency shall provide the Joint Legislative Audit Committee and the Auditor General with any and all the information described in subdivision (b) within a reasonable period of time as determined by the committee in consultation with the State Department of Health Services, after receipt of a request from the committee approved by a majority of the members of the committee. The Joint Legislative Audit Committee and the Auditor General may use such information only for the purpose of investigating or auditing the administration of the Medi-Cal Program, Chapter 8 (commencing with Section 14200), or Chapter 8.7 (commencing with Section 14520), and shall not use such information for commercial or political purposes. In any case where disclosure of information is authorized by this section, the Joint Legislative Audit Committee or the Auditor General shall not disclose the identity of any applicant or recipient, except in the case of a criminal or civil proceeding conducted in connection with the administration of the Medi-Cal Program.

(e) The access to information provided in subdivision (d) shall be permitted only to the extent and under the conditions provided by

Federal Law and regulations governing the release of such information.

(f) The State Department of Health Services may make rules and regulations governing the custody, use and preservation of all records, papers, files and communications pertaining to the administration of the laws relating to the Medi-Cal Program, Chapter 8 (commencing with Section 14200), or Chapter 8.7 (commencing with Section 14520). The rules and regulations shall be binding on all departments, officials and employees of the state, or of any political subdivision of the state and may provide for giving information to or exchanging information with agencies, public or political subdivisions of the state, and may provide for giving information to or exchanging information with agencies, public or private, which are engaged in planning, providing or securing such services for or in behalf of recipients or applicants; and for making case records available for research purposes, provided, that such research will not result in the disclosure of the identity of applicants for or recipients of such services.

(g) Any person who knowingly releases or possesses confidential information concerning persons who have applied for or who have been granted any form of Medi-Cal benefits or benefits under Chapter 8 (commencing with Section 14200) or Chapter 8.7 (commencing with Section 14520) for which state or federal funds are made available in violation of this section is guilty of a misdemeanor.

SEC. 2.2. Section 14100.3 is added to the Welfare and Institutions Code, to read:

14100.3. An individual member of a county board of supervisors may, pursuant to an inquiry or complaint, receive from the county welfare department factual information relating to the eligibility of the applicant or recipient for Medi-Cal. The factual information shall be used for the same purpose and shall be subject to the same restrictions on disclosure as set forth in Section 10850.

SEC. 3. Section 10503 of the Government Code is amended to read:

10503. The committee is authorized to make rules governing its own proceedings and to create subcommittees from its membership and assign to such subcommittees any study, inquiry, investigation, or hearing which the committee itself has authority to undertake or hold. The provisions of Rule 36 of the Joint Rules of the Senate and Assembly relating to investigating committees shall apply to the committee and it shall have such powers, duties and responsibilities as the Joint Rules of the Senate and Assembly shall from time to time prescribe, and all the powers conferred upon committees by Section 11, Article IV, of the Constitution.

SEC. 4. Section 10503.1 is added to the Government Code, to read:

10503.1. Notwithstanding any other provision of law to the contrary, the committee shall establish priorities and assign all work

to be done by the Auditor General. The committee shall not be required to direct the Auditor General to conduct an audit or investigation unless such a statutory mandate specifically waives the provisions of this section and also appropriates to the Joint Legislative Audit Committee sufficient funds to complete the study.

SEC. 5. Section 10520 is added to the Government Code, to read:

10520. The Auditor General shall only conduct audits and investigations approved by the Joint Legislative Audit Committee. Any provision of law directing the Auditor General to conduct an audit or investigation shall be deemed a request to the Joint Legislative Audit Committee to direct the Auditor General to undertake such an audit or investigation.

SEC. 6. Section 10527.1 is added to the Government Code, to read:

10527.1. Where any specific statute bars the access of the Auditor General or the Joint Legislative Audit Committee to any record, the Joint Legislative Audit Committee, by approval of a majority of the members of the committee, may authorize that the Auditor General and the Joint Legislative Audit Committee be granted access to such records provided such access is for the purpose of an audit authorized by the committee to the extent permitted by federal law. Such authorization shall include safeguards to prohibit disclosure of any information which identifies by name or address any public social service recipient, or any other record which is protected by law.

SEC. 7. Section 10527.2 is added to the Government Code, to read:

10527.2. The Auditor General shall not have access to arrest records of the Bureau of Criminal Identifications and Investigation without the specific authorization of the Joint Legislative Audit Committee and the Attorney General. It is the intent of this section that the Attorney General comply with such a request if it is clear that the information is an essential element of an approved audit and such information will not be used for commercial or political purposes.

SEC. 8. Section 10527.3 is added to the Government Code, to read:

10527.3. It shall be a misdemeanor for the Auditor General or any employee of the Auditor General, a member of the Joint Legislative Audit Committee or any employee of the committee to release any information received pursuant to Section 10850 of the Welfare and Institutions Code or Section 10527.1 or 10527.2 of this code, that is otherwise prohibited by law to be disclosed.

SEC. 9. Section 10527.4 is added to the Government Code, to read:

10527.4. Nothing in Section 10527.1, 10527.2 or 10527.3, nor any other provision of law shall limit the authority of the Joint Legislative Audit Committee to subpoena records under the authority granted to the committee by the Constitution and the Joint Rules of the Senate and Assembly.

SEC. 10. Section 5019.26 of the Public Resources Code is repealed.

SEC. 11. Section 2 of Chapter 78 of the Statutes of 1917 is amended to read:

Sec. 2. The city shall establish a separate trust fund or funds on or before December 31, 1971, for deposit of all moneys or proceeds derived from the granted tidelands in the city.

SEC. 12. Section 8 of Chapter 78 of the Statutes of 1917 is amended to read:

Sec. 8. In the event that the city fails or refuses to file with the State Lands Commission any report, statement, or document required by any provision of this act within the time period specified by this act, or any extension period granted pursuant to this act within 30 days after written notice to the city, or fails or refuses to carry out the terms of the grant within 30 days after written notice to the city, the State Lands Commission shall within 60 days notify the Chief Clerk of the Assembly and the Secretary of the Senate.

The Attorney General shall, upon request of the State Lands Commission, after the city has been given such notice and after such failure or refusal by the city, bring such judicial proceedings for correction and enforcement as are appropriate, and shall act to protect any properties and assets situated on the granted tidelands or derived therefrom.

SEC. 13. Section 10 of Chapter 78 of the Statutes of 1917 is repealed.

SEC. 14. Section 10 of Chapter 138 of the Statutes of 1964 is amended to read:

Sec. 10. On or before October 1st of each year, the City of Long Beach shall cause to be made and filed with the State Lands Commission and with the Legislature a detailed statement of all expenditures of oil revenue, other than that required in this act to be paid to the state, including obligations incurred but not yet paid. Said statement shall cover the fiscal year preceding its submission and shall show the project or operation for which each such expenditure or obligation is made or incurred.

SEC. 15. Section 423.8 of Chapter 359 of the Statutes of 1977 is repealed.

SEC. 16. Section 3 of Chapter 743 of the Statutes of 1978 is amended to read:

Sec. 3. It is the intent of the Legislature that the additional costs incurred by counties in the 1979-80 fiscal year and subsequent years in administering the arbitration program required by this act be reimbursed to the extent that such costs are not offset by the avoidance of costs associated with the reduced need for additional superior court judgeships. Funding for such costs can be provided through the regular budget process. Claims for actual costs incurred in the 1979-80 fiscal year and subsequent fiscal years must be submitted to the State Controller pursuant to paragraph (2) of subdivision (d) of Section 2231 of the Revenue and Taxation Code.

The Controller shall reduce such claims by the amount of any cost avoidance that is found to have occurred in each county.

SEC. 17. Section 4 of Chapter 743 of the Statutes of 1978 is repealed.

SEC. 18. It is the intent of the Legislature that if this bill and Assembly Bill 2790 or Assembly Bill 2274, or both, are chaptered and become effective January 1, 1981, each of the bills amend Section 10850 of the Welfare and Institutions 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 2790 are both chaptered and become effective January 1, 1981, both bills amend Section 10850 of the Welfare and Institutions Code, but Assembly Bill 2274 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill 2790, Section 10850 of the Welfare and Institutions Code, as amended by Section 1 of this act, shall remain operative until the effective date of Assembly Bill 2790, and on the effective date of Assembly Bill 2790, Section 10850 of the Welfare and Institutions Code, as amended by Section 1 of this act, shall be further amended in the form set forth in Section 1.2 of this act to incorporate the changes in Section 10850 proposed by Assembly Bill 2790. Therefore, if this bill and Assembly Bill 2790 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 10850, this bill is chaptered after Assembly Bill 2790, and Assembly Bill 2274 is not chaptered or as chaptered does not amend that section, Section 1.2 shall be operative and Sections 1.3 and 1.4 of this act shall not become operative.

(2) If this bill and Assembly Bill 2274 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 10850 of the Welfare and Institutions Code, but Assembly Bill 2790 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill 2274, Section 10850 of the Welfare and Institutions Code, as amended by Section 1 of this act, shall remain operative until the effective date of Assembly Bill 2274, and on the effective date of Assembly Bill 2274, Section 10850 of the Welfare and Institutions Code, as amended by Section 1 of this act, shall be further amended in the form set forth in Section 1.3 of this act to incorporate the changes in Section 10850 proposed by Assembly Bill 2274. Therefore, if this bill and Assembly Bill 2274 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 10850, this bill is chaptered after Assembly Bill 2274, and Assembly Bill 2790 is not chaptered or as chaptered does not amend that section, Section 1.3 of this act shall be operative and Sections 1.2 and 1.4 of this act shall not become operative.

(3) If this bill and Assembly Bill 2274 and Assembly Bill 2790 are all chaptered and become effective on or before January 1, 1981, all three bills amend Section 10850 of the Welfare and Institutions Code, and this bill is chaptered after Assembly Bill 2274 and Assembly Bill 2790, Section 10850 of the Welfare and Institutions Code, as amended

by Section 1 of this act, shall remain operative until the effective date of Assembly Bills 2790 and 2274, and on the effective date of Assembly Bills 2790 and 2274, Section 10850 of the Welfare and Institutions Code, as amended by Section 1 of this act, shall be further amended in the form set forth in Section 1.4 of this act to incorporate the changes in Section 10850 proposed by Assembly Bills 2790 and 2274. Therefore, if this bill and Assembly Bill 2274 and Assembly Bill 2790 are all chaptered and become effective on or before January 1, 1981, all three bills amend Section 10850 of the Welfare and Institutions Code, and this bill is chaptered after Assembly Bill 2274 and Assembly Bill 2790, Section 1.4 of this act shall be operative and Sections 1.2 and 1.3 of this act shall not become operative.

SEC. 19. Section 2.2 of this act shall become operative only in the event that AB 2274 is chaptered into law.

SEC. 20. 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 sufficient information be available to the Legislature regarding the use of state funds which are received by public entities in order to ensure the advisability of continuing such funding, at the earliest possible time, it is essential that this act take immediate effect.

SEC. 21. 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.

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## CHAPTER 1160

An act to amend Section 1 of Chapter 700 of the Statutes of 1978, relating to Medi-Cal, and making an appropriation therefor.

[Approved by Governor September 27, 1980. Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. Section 1 of Chapter 700 of the Statutes of 1978 is amended to read:

Section 1. Under its pilot programs, the State Director of Health Services was required to establish a pilot program to compare patient treatment profiles and prior authorization as controls of

overutilization. The Legislature finds that additional time is required to complete the evaluation of that pilot program. Such established pilot program may continue in Fresno County and such other areas as determined by the State Director of Health Services in carrying out the purpose of this section. The State Director of Health Services shall report to the Legislature on or before June 30, 1982, the results of the evaluation of this program.

Providers of durable medical equipment who participate in the pilot program shall not supply durable medical equipment outside the geographic area of the program, unless the provider obtains prior authorization in the same manner as is required for nonparticipating providers located outside the geographic area of the program.

This section shall remain in effect only until June 30, 1982, and as of such date is repealed.

SEC. 2. There is hereby appropriated from the General Fund the sum of one hundred sixty-nine thousand three hundred dollars (\$169,300) to the State Department of Health Services to carry out the purposes of this act.

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## CHAPTER 1161

An act to add Sections 25117.3, 25117.4, 25156, 25177, 25185.5, and 25196 to, and to add Article 11 (commencing with Section 25220) to Chapter 6.5 of Division 20 of, the Health and Safety Code, and to add Section 402.3 to the Revenue and Taxation Code, relating to hazardous waste, and making an appropriation therefor.

[Approved by Governor September 27, 1980. Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. Section 25117.3 is added to the Health and Safety Code, to read:

25117.3. (a) "Hazardous waste property" means land which is either of the following:

(1) Any hazardous waste facility or portion thereof, required to be permitted pursuant to this chapter, which has a permit for disposal from the department or has submitted an application for such a permit.

(2) A portion of any land designated as a hazardous waste property pursuant to Section 25229 where a significant disposal of hazardous waste has occurred on, under, or into the land resulting in a significant existing or potential hazard to present or future public health or safety.

(b) "Hazardous waste property" does not mean residential land that has never received waste chemicals from an industrial, commercial, agricultural, research, or business activity.

SEC. 2. Section 25117.4 is added to the Health and Safety Code, to read:

25117.4. "Border zone property" means any property designated as border zone property pursuant to Section 25229 which is within 2,000 feet of a significant disposal of hazardous waste, and the wastes so located are a significant existing or potential hazard to present or future public health or safety on the land in question.

SEC. 3. Section 25156 is added to the Health and Safety Code, to read:

25156. The department shall develop and adopt regulations and standards to implement the provisions of Article 11 (commencing with Section 25220). The department shall seek recommendations of the hazardous waste technical advisory committee on wording of proposed regulations.

SEC. 4. Section 25177 is added to the Health and Safety Code, to read.

25177. The department may report findings and results of an investigation which the department undertakes pertaining to subject matter governed by this chapter, except for trade secrets as provided in Section 25173. The department may distribute such information as it considers necessary for the protection of the public or for the protection of human health, domestic livestock, wildlife, and the environment. The department may publish reports summarizing or containing any order of the director or any judgment or court order which has been rendered pursuant to this chapter, including the nature of the charge and its disposition.

SEC. 5. Section 25185.5 is added to the Health and Safety Code, to read:

25185.5. In order to carry out the purposes of Article 11 (commencing with Section 25220), any duly authorized representative of the department may at any reasonable hour of the day, enter and inspect any real property which is within 2,000 feet of a deposit of hazardous waste or a hazardous waste property and do any of the following:

(a) Obtain samples of the soil, vegetation, air, water, and biota on such land.

(b) Set up and maintain monitoring equipment for the purpose of assessing or measuring the actual or potential migration of hazardous wastes on or toward the land.

(c) Survey and determine the topography and geology of the land.

(d) Photograph any equipment, sample, activity, or environmental condition described in subdivision (a), (b), or (c) of this section. Such photographs shall be subject to the requirements of subdivision (d) of Section 25185.

(e) This section shall not apply to any hazardous waste facility which is required to be permitted pursuant to this chapter and which is subject to inspection pursuant to Section 25185.

(f) An inspector who inspects pursuant to this section shall make

a reasonable effort to inform the owner or his authorized representative of such inspection and shall provide split samples to the owner or representative upon request and shall comply with the provisions of subdivision (b) of Section 25185.

SEC. 6. Section 25196 is added to the Health and Safety Code, to read:

25196. Any person who knowingly violates a provision of subdivision (a) of Section 25221 or subdivision (a) or (b) of Section 25232 shall be subject to a civil penalty not to exceed 25 percent of the fair market value of the land and improvements, 25 percent of the sale price of the land and improvements, or fifty thousand dollars (\$50,000), whichever has been established and is greatest.

SEC. 7. Article 11 (commencing with Section 25220) is added to Chapter 6.5 of Division 20 of the Health and Safety Code, to read:

#### Article 11. Hazardous Waste Disposal Land Use

25220. (a) Whenever there is reasonable cause for the department to believe that any land is a hazardous waste property, the department may, by certified mail, request any person who owns, leases, or occupies such land or any other person who has information relating to such land, to provide any or all of the following information:

- (1) A description of the present use of the land.
- (2) The types and volumes of hazardous waste or extremely hazardous waste contained therein or thereon.
- (3) The date or dates such hazardous waste or extremely hazardous waste was deposited into or onto the land.
- (4) A map or maps of the property which they own and which contains or overlies hazardous waste or extremely hazardous waste, drawn to a scale of not more than 200 feet to the inch, which shows the area or areas where such hazardous waste or extremely hazardous waste is contained or was deposited. The provision of a map pursuant to this subdivision shall not be required if the respondent to the request asserts in writing that he has no knowledge or insufficient knowledge of the existence or location of such wastes to comply with this subdivision.

(b) Any person who is requested to provide information pursuant to subdivision (a) of this section shall submit such information to the department within 90 calendar days of receipt of the request.

25221. (a) Any person as owner, lessor, or lessee who (1) knows or has probable cause to believe that a significant disposal of hazardous waste has occurred on, under, or into the land which he owns or leases or that the land is within 2,000 feet of a significant disposal of hazardous waste; and (2) intends to construct or allow the construction on such land of a building or structure to be used for a purpose which is described in subdivision (b) of Section 25232 within the next calendar year; shall apply to the department prior to such construction for a determination as to whether the land should be

designated a hazardous waste property or a border zone property pursuant to Section 25229.

(b) Any person who, as owner, lessor, or lessee knows or has probable cause to believe that land which he owns or leases is a hazardous waste property or a border zone property, may apply to the department for a determination whether the land should be designated a hazardous waste property or a border zone property pursuant to Section 25229.

(c) If a city or county knows or has probable cause to believe that any land within its jurisdiction is a hazardous waste property or a border zone property, the city or county may apply to the department for a determination whether that land should be designated a hazardous waste property or a border zone property pursuant to Section 25229.

(d) Subdivisions (a), (b), and (c) shall not be applicable to any land on which a determination has previously been made pursuant to Section 25229 or which is a hazardous waste property as defined in paragraph (1) of subdivision (a) of Section 25117.3, unless either of the following has occurred since such determination:

(1) A significant new disposal of hazardous waste has occurred on, under, or into the land.

(2) Significant new information about past disposal of hazardous waste on, or within 2,000 feet of, the land becomes known to the owner, lessor, or lessee of such land.

25222. (a) Whenever the department considers designating land as a hazardous waste property or a border zone property, it shall issue and cause to be served upon the owner of the land and the legislative body of the city or county in whose jurisdiction the land is located a notice of a hearing. The notice shall contain (1) a statement that the land is under consideration for designation as a hazardous waste property or a border zone property; (2) a summary of the reasons for such designation and what significant existing or potential health hazards are believed to exist; and (3) notice of the time, date, and place of the hearing, and any policy regarding continuance of the hearing.

(b) The department shall exercise its authority under Section 25202.5 with regard to hazardous waste property as defined in paragraph (1) of subdivision (a) of Section 25117.3 to protect the present and future public health and safety from hazardous waste instead of utilizing the provisions of this article.

25223. Public notice of the hearing shall also be provided by the department at least 15 days before the hearing. Such notice shall be given by publication once in a newspaper of general circulation published and circulated in the locale, or if there is none, by posting the notice in at least three public places in the locale.

25224. The hearing shall be held before the director, or any agent or agency designated by the director for such purpose, not less than 30 days after the serving of the notice. The hearing shall be commenced within 90 days of the serving of the notice. The

department may delay the hearing upon request of any interested person.

25225. The department may consolidate into a single hearing those hearings which affect a hazardous waste property and any associated border zone property. Notice of such consolidation shall occur as soon as practicable, but not less than 15 days before the hearing.

25226. The persons served shall have the right to file a response to the notice and to appear in person or otherwise and give testimony at the place and time fixed in the notice. At the discretion of the director, agent, or agency conducting the hearing, any interested person may be allowed to intervene in the proceeding and to present testimony. Any such proceeding shall, so far as practicable, be conducted pursuant to the provisions of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code. All proceedings shall be appropriately reported, and the testimony taken shall be reduced to writing and filed with the director. Thereafter, at his or her discretion, the director, upon notice, may take further testimony or hear argument.

25227. Discovery for a hearing held pursuant to this article shall be conducted as provided in Sections 11507.6, 11507.7, 11510, and 11511 of the Government Code.

25228. (a) With regard to designating land as a hazardous waste property, the department shall have the burden of proving that hazardous waste has been deposited on, under, or in the land and that the hazardous waste creates a significant existing or potential hazard to present or future public health or safety on the hazardous waste property.

(b) With regard to designating land as a border zone property, the department shall have the burden of proving that hazardous waste has been deposited within 2,000 feet of the land and that the hazardous waste creates a significant existing or potential hazard to present or future public health or safety on the border zone property.

25229. (a) If, upon the preponderance of the testimony taken, including any evidence developed at any time prior to the hearing, the director is of the opinion that the land should be designated a hazardous waste property or a border zone property, the director shall issue and cause to be served on the owner of the land, the legislative body of the city or county in whose jurisdiction the land is located, and upon any other persons who were permitted to intervene in the proceedings, his or her decision and findings of fact. The findings of fact shall include reasons for such designation, including what substances are on, under, or in the land, and the significant existing or potential hazards to present or future public health and safety.

(b) If the director is of the opinion that the land should not be designated a hazardous waste property or border zone property, the director shall issue and cause to be served on the parties mentioned

in subdivision (a) his or her decision and findings of fact.

25230. Upon designation of land as hazardous waste property or border zone property pursuant to Section 25229, the director shall issue and cause to be served on the owner of the property and shall give notice to the legislative body of the city or county in whose jurisdiction the land is located and any other persons who were permitted to intervene in the proceeding, orders requiring all of the following:

(a) The execution and recordation of a written instrument which imposes an easement upon the present and future uses of all or part of the land which has been designated a hazardous waste property or a border zone property. Such easement shall permit the department or its representatives to enter the land, subject to Section 25185 or 25185.5, to monitor problems regarding hazardous wastes. The easement shall be executed by all the owners of such land and by the director, shall particularly describe the real property affected by the instrument, and, if applicable, the location of the easement on the real property. The easement shall be recorded with the recorder of the county in which the land is located within 10 days of the date of execution and shall be indexed by the county recorder in the grantor index in the name of the record title owner of the real property and in the grantee index in the name of the department. The easement shall state that the land described in the instrument is subject to a hazardous waste easement. Notwithstanding any other provision of law, an easement 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, or lessees of such owners, heirs, successors, and assignees. The easement shall be enforceable by the department pursuant to Article 8 (commencing with Section 25180). Notwithstanding any other provision of law, any easement held by the department shall not be sold or otherwise transferred to another person.

(b) The execution and service of a written instrument to accompany all lease or rental agreements relating to the land which has been designated a hazardous waste property or a border zone property. The instrument shall be prepared by the owner or lessor of the land and shall contain the following statement:

"The land described herein contains hazardous waste or is within 2,000 feet of land that contains hazardous waste. Such condition renders the land and the owner, lessee, or other possessor of the land subject to requirements, restrictions, provisions, and liabilities contained in Chapter 6.5 (commencing with Section 25100) of Division 20 of the Health and Safety Code. This statement is not a declaration that a hazard exists."

25231. A decision of the director made after a hearing pursuant to Section 25229 shall be reviewable pursuant to Section 1094.5 of the Code of Civil Procedure.

25232. (a) Except as provided in subdivision (c) of this section,

after the director has provided notice in compliance with Section 25222 and a hearing or decision regarding specific land is pending, or after a hearing has been conducted and a decision has been made pursuant to Section 25229 that land is a hazardous waste property, then none of the following shall occur on the land without a specific variance approved in writing by the department for the land use and land in question:

(1) Any new use of the land, other than the use, modification, or expansion of an existing industrial or manufacturing facility or complex on land which is owned by, or held for the beneficial use of, such facility or complex as of January 1, 1981, and which is a hazardous waste property as defined in Section 25117.3.

(2) Subdivision of such land, as that term is used in Division 2 (commencing with Section 66410) of Title 7 of the Government Code, except that this paragraph shall not prevent the division of a parcel of land so as to divide that portion of the parcel which is designated a hazardous waste property from other portions of such parcel not so designated.

(b) Except as provided in subdivision (c) of this section, after the director has provided notice in compliance with Section 25222 and a hearing or decision regarding specific land is pending, or after a hearing has been conducted and a decision has been made pursuant to Section 25229 that land is a border zone property, then none of the following shall occur on the land without a specific variance approved in writing by the department for the land use and land in question:

(1) Construction or placement of a building or structure on the land which is intended for use as any of the following, or the new use of an existing structure for the purpose of serving as any of the following:

(A) A residence, including any mobilehome or factory built housing constructed or installed for use as permanently occupied human habitation.

(B) A hospital for humans.

(C) A school for persons under 21 years of age.

(D) A day care center for children.

(E) Any permanently occupied human habitation other than those used for industrial purposes.

(2) Subdivision of such land, as that term is used in Division 2 (commencing with Section 66410) of Title 7 of the Government Code, except that this paragraph shall not prevent the division of a parcel of land so as to divide that portion of the parcel which is designated a border zone property from other portions of such parcel not so designated.

(c) This section shall not apply to a portion of a parcel of land which is determined by the director to meet all of the following requirements:

(1) The parcel has been previously classified as a class II-1 disposal site as defined in Section 2510 or 2511 of Title 23 of the California

Administrative Code.

(2) The portion of the parcel is physically isolated from the remainder of the classified parcel by the construction of a freeway, as defined in Section 332 of the the Vehicle Code, which divides the classified parcel.

(3) The portion of the parcel has not been used as a hazardous waste disposal site.

(4) The portion of the parcel does not contain or overlie hazardous waste.

25233. (a) Any aggrieved person may apply to the department for a written variance from the requirements set forth in subdivision (a) or (b) of Section 25232. Any application shall contain sufficient evidence for the department to issue a notice for a hearing. The notice shall contain (1) a statement that a hearing is pending on the land or that the land has been designated a hazardous waste property or a border zone property and (2) a statement of who is applying for a variance, the proposed variance, and a statement of the reasons in support of the granting of a variance. The procedures for the conducting of this hearing shall be those set forth in this article. No person shall make a subsequent application pursuant to this section within 18 months of a final decision on an application by the department.

(b) The applicant shall have the burden of proving at the hearing that such variance will not cause or allow any of the following effects associated with hazardous waste or extremely hazardous waste:

(1) The creation or increase of significant present or future hazards to public health.

(2) Any significant diminution of the ability to mitigate any significant potential or actual hazard to public health.

(3) Any long-term increase in the number of humans or animals exposed to significant hazards which affect the health, well-being, or safety of the public.

(c) If, upon the preponderance of the testimony taken, the director is of the opinion that the variance should be granted, the director shall issue and cause to be served his or her decision and findings of fact on the owner of the land, the legislative body of the city or county in whose jurisdiction the land is located, and upon any other persons who were permitted to intervene in the proceedings. The findings of fact shall include the exact nature of the proposed variance and the reasons in support of the granting of the variance.

(d) If the director is of the opinion that the variance should not be granted, the director shall issue and cause to be served his or her findings of fact in support of the denial on the parties mentioned in subdivision (c).

(e) The department shall record within 10 days any final determination made pursuant to this section as provided in Section 25235.

(f) A decision of the director made after a hearing held pursuant to this section shall be reviewable pursuant to Section 1094.5 of the

Code of Civil Procedure and shall be upheld if the court finds that it is supported by substantial evidence.

25234. (a) Any aggrieved person may apply to the department to remove a designation that land is a hazardous waste property or a border zone property on the grounds that the waste no longer creates a significant existing or potential hazard to present or future public health or safety. No person shall make a subsequent application pursuant to this section within 12 months of a final decision on an application by the department. Any application shall contain sufficient evidence for the department to make a finding upon any or all of the following grounds:

(1) The hazardous waste which caused the land to be designated has since been removed or altered in a manner which precludes any significant existing or potential hazard to present or future public health.

(2) New scientific evidence is available since the designation of the land or the making of any previous application pursuant to this section, concerning either of the following:

(A) The nature of the hazardous waste which caused the land to be designated.

(B) The geology or other physical environmental characteristics of the designated land.

(b) Any aggrieved person may appeal a decision of the department made pursuant to subdivision (a) by submitting a request for a hearing to the director. The request shall be mailed by certified mail not later than 30 days after the date of the mailing of the department's decision on the application.

(c) Upon receipt of a timely appeal, the director shall give notice of a hearing pursuant to the procedures set forth in this article.

(d) The department shall record within 10 days any new and final determination made pursuant to this section as provided in Section 25235.

(e) A decision made by the department after a hearing held pursuant to this section shall be reviewable pursuant to Section 1094.5 of the Code of Civil Procedure and shall be upheld if the court finds that it is supported by substantial evidence.

(f) Whenever there is a final decision pursuant to this section removing the designation of a hazardous waste property or a border zone property, the easement on such land created by Section 25230 shall automatically terminate. The department shall record or cause to be recorded within 10 days a termination of the easement which shall particularly describe the real property subject to the easement and which shall be indexed by the recorder in the grantor index in the name of the department and in the grantee index in the name of the record title owner of the real property subject to the easement.

25235. The department shall record within 10 days any final determination made pursuant to Section 25229 with the county recorder of the county in which the property is located. Any recordation made pursuant to this article or Section 25202.5 shall

include the street address, assessor's parcel number, or legal description of each parcel affected and the name of the owner thereof, and the recordation shall be recorded by the recorder in the grantor index in the name of the record title owner of the real property and in the grantee index in the name of the department.

25236. (a) Prior to, or simultaneously with, utilizing the provisions of this article, the department shall diligently pursue feasible civil and criminal actions against any operator or other responsible party who violates the provisions of this chapter and the regulations promulgated thereunder. However, nothing in this chapter shall be construed as restricting or diminishing any remedy provided by law to the owner or possessor of any land which is affected by hazardous waste on or near such land against any person who produced such waste or against any other person who was responsible for the condition affecting the property.

(b) A determination by the department pursuant to Section 25229 shall constitute a land use restriction. Except as specifically provided in this chapter, nothing in this chapter shall diminish or limit the authority of any city or county to approve or disapprove proposed land uses. Nothing in this chapter shall be construed to require a local government to permit a particular land use, including but not limited to, commercial, industrial, agricultural, or other nonresidential use, on land which has been designated hazardous waste property or border zone property pursuant to Section 25229.

25237. If any provision of this article or the application thereof to any person or circumstance is held invalid, such holding shall not affect other provisions or applications of this article which can be given effect without the invalid provision or application, and to this end, the provisions of the article are severable.

25238. (a) Except as provided in subdivision (b) of this section, no person shall dispose of any hazardous waste or extremely hazardous waste into or onto any land or any portion of land which is within 2,000 feet of an existing land use described in paragraph (1) of subdivision (b) of Section 25232 as of August 6, 1980.

(b) This section shall not apply to any hazardous waste property as defined in paragraph (1) subdivision (a) of Section 25117.3 which was actually and lawfully disposing of hazardous waste on August 6, 1980, unless such disposal is prohibited pursuant to Section 25202.5 or any other provision of law.

(c) It is the intent of the Legislature in enacting this section to require that any hazardous waste disposal site which opens or reopens after August 6, 1980, shall have a minimum buffer zone of 2,000 feet between the actual location where hazardous wastes are disposed and any existing uses as of August 6, 1980, which are described in paragraph (1) of subdivision (b) of Section 25232.

25239. All costs associated with the administration of this article by the department, including, but not limited to, costs incurred to implement Section 25156 and 25220, shall be paid from the Hazardous Waste Control Account in the General Fund.

25240. An assessor shall consider any restrictive covenant adopted pursuant to Section 25202.5 or any restriction imposed pursuant to Section 25229 as an enforceable restriction subject to the provisions of Section 402.1 of the Revenue and Taxation Code and shall appropriately reassess any land, the use of which has been so restricted, at the lien date following the adoption or imposition of the covenant or restriction.

SEC. 8. Section 402.3 is added to the Revenue and Taxation Code, to read:

402.3. An assessor shall consider any restrictive covenant adopted pursuant to Section 25202.5 or any restriction imposed pursuant to Section 25229 of the Health and Safety Code as an enforceable restriction subject to the provisions of Section 402.1 of this code and shall appropriately reassess any land, the use of which has been so restricted, at the lien date following the adoption or imposition of the covenant or restriction.

SEC. 9. 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.

SEC. 10. The sum of one hundred five thousand dollars (\$105,000) is hereby appropriated from the General Fund to the State Department of Health Services for the purpose of establishing staff to administer the provisions of Article 11 (commencing with Section 25220) of Chapter 6.5 of Division 20 of the Health and Safety Code.

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## CHAPTER 1162

An act to amend Sections 2627 and 2627.5 of, and to add Section 2627.7 to, the Unemployment Insurance Code, relating to unemployment disability insurance.

[Approved by Governor September 27, 1980 Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. Section 2627 of the Unemployment Insurance Code is amended to read:

2627. A disabled individual is eligible to receive disability benefits equal to one-seventh of his or her weekly benefit amount for each full day during which he or she is unemployed due to a disability only if the director finds that:

(a) He or she has made a claim for disability benefits as required

by authorized regulations.

(b) Except as provided in Sections 2627.3, 2627.5, and 2627.7, he or she has been unemployed and disabled for a waiting period of seven consecutive days during each disability benefit period with respect to which waiting period no disability benefits are payable.

(c) Except as provided in Sections 2626.1 and 2709, he or she has submitted to such reasonable examinations as the director may require for the purpose of determining his or her disability.

(d) Except as provided in Section 2708.1, he or she has filed a certificate as required by Section 2708 or 2709.

SEC. 2. Section 2627.5 of the Unemployment Insurance Code is amended to read:

2627.5. (a) If an individual, pursuant to orders of his or her physician, is confined in a hospital for at least one day, any unexpired full days of the waiting period required by subdivision (b) of Section 2627 shall be waived. This subdivision shall apply to an individual's confinement in a nursing home as defined by subparagraph (B) of paragraph (4) of subdivision (c), but only if immediately prior to such confinement he or she was confined in a hospital (other than a nursing home) for not less than 15 consecutive days pursuant to the orders of his or her physician or confined to such nursing home by order of a physician, where such nursing home is used where an individual's disability requires immediate hospitalization and a bed is unavailable in a hospital (other than a nursing home).

(b) In addition to the certificate required by Section 2706.1, the waiver provided by this section shall be supported by a certificate stating the day an individual's confinement in a hospital commenced, and stating that the confinement was 24 hours or more in duration or that a full day's rate was charged, and signed by the registrar or other appropriate official of the hospital.

(c) As used in this section:

(1) "Confined" means a registered bed patient.

(2) "Day" means any 24-hour period of time during which the claimant is in a hospital, or any 24-hour period or any part thereof for which a hospital charges a patient a full day's rate.

(3) "Full day's rate" means the regular and customary daily charge for board and room by the hospital.

(4) "Hospital" means:

(A) Within the State of California, any institution which is:

(i) Licensed by the State Department of Health Services as a general hospital, maternity hospital, tuberculosis hospital or sanatorium or specialized hospital; or

(ii) Operated as a hospital but exempt from licensing by the State Department of Health Services under subdivision (a) of Section 1270 of the Health and Safety Code; or

(iii) Operated as a mental hospital licensed by the State Department of Health Services which is primarily intended for, staffed and equipped to provide for the reception, care, diagnosis and treatment of acute mental and nervous diseases.

(B) Within the states of the United States, any institution operated as a "nursing home" which is:

(i) An extended care facility as defined in subsection (j) of Section 1395x of Title 42 of the United States Code; or

(ii) 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.

(C) Outside the State of California, any institution in other states or foreign countries, or in the territories or possessions of any country which is:

(i) Licensed as a hospital pursuant to the statutes or laws of that state or foreign country, or a territory or possession of a country; or,

(ii) Operated pursuant to law with organized facilities for diagnosis and surgery, and 24-hour nursing service for the care and treatment of sick and injured persons, if the state or foreign country, or the territory or possession of the country does not have statutes or laws concerning the requirements for licensing hospitals.

(D) Any institution which is operated as a hospital by the United States government or a duly authorized agency thereof.

(5) "Orders of his or her physician" means court order or physician's or health officer's certificate or order of a physician as defined in Section 3209.3 of the Labor Code or order of a practitioner duly authorized by any bona fide church, sect, denomination or organization whose principles or teachings call for dependence for healing entirely upon prayer or spiritual means or order of a duly authorized medical officer of any facility of the United States government or order of any member of any one of the professions enumerated in Section 3209.3 of the Labor Code duly licensed by and practicing within the scope of such license in any state outside this state or in any foreign country, or in a territory or possession of any country.

SEC. 3. Section 2627.7 is added to the Unemployment Insurance Code, to read:

2627.7. (a) If an individual, pursuant to orders of his or her physician, receives treatment in a hospital surgical unit or a surgical clinic which requires a stay of less than 24 hours, any unexpired full days of the waiting period required by subdivision (b) of Section 2627 shall be waived, provided the individual is disabled for a period of eight days or more during the disability benefit period as a result of such treatment.

(b) In addition to the certificate required by Section 2706.1, the waiver provided by this section shall be supported by both of the following:

(1) A certificate stating the day the individual received such treatment, signed by an appropriate official of the hospital or clinic.

(2) A certificate that the individual is disabled for eight days or more as a result of such treatment, signed by his or her physician.

(c) As used in this section:

(1) "Hospital" means:

(A) Within the State of California, any institution which is licensed as a general hospital by the State Department of Health Services under Section 1253 of the Health and Safety Code.

(B) Outside the State of California, any institution in another state or foreign country, or in a territory or possession of any country, which is:

(i) Licensed as a hospital pursuant to the statutes or laws of that state, foreign country, or territory or possession of any country; or

(ii) Operated pursuant to law with organized facilities for the care and treatment of sick and injured persons, if that state, foreign country, or territory or possession of any country does not have statutes or laws concerning requirements for licensing hospitals.

(C) Any institution operated as a hospital by the United States government or a duly authorized agency thereof.

(2) "Surgical clinic" means a clinic which is not a part of and not operating under the license of a hospital, which is licensed by the State Department of Health Services under Section 1205 of the Health and Safety Code or is exempt from licensing under subdivision (b), (c), (d), or (f) of Section 1206 of that code, and which provides treatment for patients who remain less than 24 hours. A surgical clinic does not include the offices of private physicians as defined in Section 3209.3 of the Labor Code in individual or group practice.

(3) "Surgical unit" means a unit located in or operating under the license of a hospital and providing treatment for patients who remain less than 24 hours.

(4) "Orders of his or her physician" means a court order or physician's or health officer's certificate or order of a physician as defined in Section 3209.3 of the Labor Code or order of a duly authorized medical officer of any facility of the United States government or order of any member of any one of the professions enumerated in Section 3209.3 of the Labor Code duly licensed by and practicing within the scope of such license in any state outside this state or in any foreign country, or in a territory or possession of any country.

SEC. 4. 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 there are no new duties imposed on local government by this act.

## CHAPTER 1163

An act to amend Sections 21660, 21666, and 21667 of the Business and Professions Code, and to amend Section 496 of the Penal Code, relating to swap meets.

[Approved by Governor September 27, 1980 Filed with  
Secretary of State September 29, 1980 ]

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

**SECTION 1.** Section 21660 of the Business and Professions Code is amended to read:

**21660.** It is the intent of the Legislature in enacting this article to require the statewide reporting of personal property exchanged, sold or offered for sale or exchange at "swap meets" in a uniform manner designed to permit the correlation of such reports with other reports of law enforcement agencies in order to assist in tracing and recovering stolen property and with the State Board of Equalization to detect possible sales tax evasion.

This article shall apply to swap meet operators and vendors, as defined herein, unless the personal property or the transaction is specifically exempt herein and shall not be superseded or supplanted by any provisions or ordinances or charters of any city, county, or city and county, nor supplemented by any such ordinances or charters or provisions. Nothing herein contained shall be deemed to affect the land use and zoning regulatory power of a local agency, nor be construed to require any local agency to permit swap meets where such local land use or zoning regulations prohibit such operations.

Any transaction which is regulated by this article shall not be subject to the provisions of Article 4 (commencing with Section 21625), regulating transactions in identifiable secondhand tangible personal property. No person, partnership, or corporation shall be considered a "secondhand dealer" within the meaning of Section 21661 because of activities regulated by this article.

Article 5 (commencing with Section 21650) of this chapter shall not apply to swap meet operators and vendors.

**SEC. 2.** Section 21666 of the Business and Professions Code is amended to read:

**21666.** (a) Upon request, a vendor shall provide the purchaser a written receipt disclosing the vendor's name and address when the items purchased have a selling price in excess of fifteen dollars (\$15).

(b) No vendor shall offer or display at a swap meet any new or used personal property or merchandise of a kind which the swap meet operator has expressly prohibited. Every swap meet owner shall post or display in prominent places at the swap meet, or give written notice to every vendor prior to the commencement of a swap meet of the kinds of personal property or merchandise which may be not offered for sale or exchange.

SEC. 3. Section 21667 of the Business and Professions Code is amended to read:

21667. A violation of any provision of this article, except subdivision (b) of Section 21666, is a misdemeanor and may be punishable by up to six months in county jail, a fine of twenty-five dollars (\$25) for the first violation, fifty dollars (\$50) for the second violation, and one hundred dollars (\$100) for the third and subsequent violations.

SEC. 4. Section 496 of the Penal Code is amended to read:

496. 1. Every person who buys or receives any property which has been stolen or which has been obtained in any manner constituting theft or extortion, knowing the property to be so stolen or obtained, or who conceals, sells, withholds or aids in concealing, selling, or withholding any such property from the owner, knowing the property to be so stolen or obtained, is punishable by imprisonment in a state prison, or in a county jail for not more than one year; provided, that where the district attorney or the grand jury determines that such action would be in the interests of justice, the district attorney or the grand jury, as the case may be, may, if the value of the property does not exceed two hundred dollars (\$200), specify in the accusatory pleading that the offense shall be a misdemeanor, punishable only by imprisonment in the county jail not exceeding one year.

2. Every swap meet vendor as defined in Section 21661 of the Business and Professions Code and every person whose principal business is dealing in or collecting used or secondhand merchandise or personal property, and every agent, employee or representative of such person, who buys or receives any property which has been stolen or obtained in any manner constituting theft or extortion, under such circumstances as should cause such person, agent, employee or representative to make reasonable inquiry to ascertain that the person from whom such property was bought or received had the legal right to sell or deliver it, without making such reasonable inquiry, shall be presumed to have bought or received such property knowing it to have been so stolen or obtained. This presumption may, however, be rebutted by proof.

3. When in a prosecution under this section it shall appear from the evidence that the defendant was a swap meet vendor or that the defendant's principal business was as set forth in the preceding paragraph, that the defendant bought, received, or otherwise obtained, or concealed, withheld or aided in concealing or withholding from the owner, any property which had been stolen or obtained in any manner constituting theft or extortion, and that the defendant bought, received, obtained, concealed or withheld such property under such circumstances as should have caused him to make reasonable inquiry to ascertain that the person from whom he bought, received, or obtained such property had the legal right to sell or deliver it to him, then the burden shall be upon the defendant to show that before so buying, receiving, or otherwise obtaining such

property, he made such reasonable inquiry to ascertain that the person so selling or delivering the same to him had the legal right to so sell or deliver it.

4. Any person who has been injured by a violation of paragraph 1 of this section may bring an action for three times the amount of actual damages, if any, sustained by the plaintiff, costs of suit and reasonable attorney's fees.

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## CHAPTER 1164

An act to add Section 1367.15 to the Health and Safety Code, and to add Sections 10195 and 10196 to the Insurance Code, relating to Medicare supplemental health policies.

[Approved by Governor September 27, 1980 Filed with  
Secretary of State September 29, 1980 ]

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

SECTION 1. Section 1367.15 is added to the Health and Safety Code, to read:

1367.15. Plan contracts, except the contracts of plans which are federally qualified health maintenance organizations pursuant to Title XIII of the United States Public Health Service Act, which primarily or solely supplement Medicare or are advertised or represented as a supplement to Medicare shall, in addition to complying with the provisions of this chapter and rules of the commissioner:

(a) Meet the minimum benefit standards as established by the Commissioner of Corporations and Insurance Commissioner jointly.

(b) Provide an examination period of 30 days for purposes of review of the contract at which time the subscriber may return the contract. Such return shall void the policy from the beginning, and the parties shall be in the same position as if no policy or contract had been issued. All premiums paid and any policy fee paid for the policy shall be refunded to the owner.

(c) Explain the relationship of the coverage under the contract to the benefits provided by Medicare.

(d) Not be limited to coverage exclusively for a single disease or affliction.

SEC. 2. Section 10195 is added to the Insurance Code, to read:

10195. "Insurance policies to supplement Medicare" refers to disability insurance policies and nonprofit hospital service plan contracts which are designed primarily to supplement Medicare, or are advertised, marketed, or otherwise purported to be a supplement to Medicare and, which are issued on a group or individual basis.

Insurance policies to supplement Medicare shall:

(a) Meet the minimum benefit standards as established by the Insurance Commissioner and Commissioner of Corporations jointly.

(b) Notwithstanding Section 10276, or any other provision of law, provide an examination period of 30 days for purposes of review of the contract at which time the subscriber may return the contract. Such return shall void the policy from the beginning, and the parties shall be in the same position as if no policy or contract had been issued. All premiums paid and any policy fee paid for the policy shall be refunded to the owner.

(c) Require insurers and plans to explain the relationship of the coverage of their policies to the benefits provided by Medicare.

(d) Not be limited to coverage exclusively for a single disease or affliction.

(f) Comply with the provisions of subdivision (b) of Section 10291.5 and Chapter 7 (commencing with Section 10600) of Part 2 of Division 2, regardless of the situs of the contract.

SEC. 3. Section 10196 is added to the Insurance Code, to read:

10196. The Insurance Commissioner and Commissioner of Corporations jointly shall make available a guide to purchasing insurance policies and plans to supplement Medicare, to be disseminated by those health insurers offering such policies and plans to potential purchasers at the time of initial contact with the potential purchaser.

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## CHAPTER 1165

An act to amend Sections 51769 and 78249 of the Education Code, and to amend Sections 3070 and 3368 of the Labor Code, relating to apprenticeship.

[Approved by Governor September 27, 1980 Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. Section 51769 of the Education Code is amended to read:

51769. Notwithstanding any provisions of this code or the Labor Code to the contrary, the school district, county superintendent of schools, or any school administered by the State Department of Education under whose supervision work experience education, or occupational training classes held in the community, as defined by regulations adopted by the State Board of Education, are provided shall be considered the employer under Division 4 (commencing with Section 3200) of the Labor Code of persons receiving such training unless such persons during such training are being paid a cash wage or salary by a private employer, or unless the person or firm under whom such persons are receiving work experience or

occupational training elects to provide workers' compensation insurance. An apprentice, while attending related and supplemental instruction classes, shall be considered to be in the employ of the apprentice's employer and not subject to this section, unless the apprentice is unemployed. Whenever such work experience education, or occupational training classes held in the community, are under the supervision of a regional occupational center or program operated by two or more school districts pursuant to Section 52301 of the Education Code, the district of residence of the persons receiving such training shall be deemed the employer for the purposes of this section.

SEC. 2. Section 78249 of the Education Code is amended to read: 78249. Notwithstanding any provisions of this code or the Labor Code to the contrary, the community college district under whose supervision work-experience education, or occupational training classes held in the community, as defined by regulations adopted by the board of governors, are provided shall be considered the employer under Division 4 (commencing with Section 3200) of the Labor Code of persons receiving such training unless such persons during such training are being paid a cash wage or salary by a private employer, or unless the person or firm under whom such persons are receiving work experience or occupational training elects to provide workers' compensation insurance. An apprentice, while attending related and supplemental instruction classes, shall be considered to be in the employ of the apprentice's employer and not subject to this section, unless the apprentice is unemployed. Whenever such work-experience education, or occupational training classes held in the community, are under the supervision of a regional occupational center or program operated by two or more community college districts pursuant to Section 52301, the district of residence of the persons receiving such training shall be deemed the employer for the purposes of this section.

SEC. 3. Section 3070 of the Labor Code is amended to read:

3070. The Governor shall appoint a California Apprenticeship Council, composed of six representatives each from employer and employee organizations, respectively, geographically selected, and of two representatives of the general public. The Director of Industrial Relations and the Superintendent of Public Instruction, or his permanent and best qualified designee, and the Chancellor of the California Community Colleges, or his permanent and best qualified designee, shall also be members of the California Apprenticeship Council. The chairman shall be elected by vote of the California Apprenticeship Council. The terms of office of the members of the California Apprenticeship Council first appointed shall expire as designated by the Governor at the time of making the appointment. Two representatives each of employers, employees, and the public representative shall serve until January 15, 1941. Two representatives each of the employers and employees shall serve until January 15, 1942. Thereafter each member shall serve for a term of two years.

Any member appointed to fill a vacancy occurring prior to the expiration of the term of his predecessor shall be appointed for the remainder of said term. Each member of the council shall receive the sum of fifty dollars (\$50) for each day of his actual attendance at meetings of the council, for each day of his actual attendance at hearings by the council or a committee thereof pursuant to Section 3082, and for each day of his actual attendance at meetings of other committees established by the council and approved by the Director of Industrial Relations, together with his actual and necessary traveling expenses incurred in connection therewith.

The terms of the five additional members provided by the amendment of this section at the 1955 Regular Session shall expire, as designated by the Governor at the time of making the appointment, as follows: One additional representative each of employers, employees, and the additional public representative shall serve until January 15, 1957; and one additional representative each of employers and employees shall serve until January 15, 1958.

SEC. 4. Section 3368 of the Labor Code is amended to read:

3368. Notwithstanding any provision of this code or the Education Code to the contrary, the school district or county superintendent of schools under whose supervision work experience education, or occupational training classes held in the community, as defined by regulations adopted by the State Board of Education, are provided shall be considered the employer under Division 4 (commencing with Section 3200) of persons receiving such training unless such persons during such training are being paid a cash wage or salary by a private employer, or unless the person or firm under whom such persons are receiving work experience or occupational training elects to provide workers' compensation insurance. An apprentice, while attending related and supplemental instruction classes, shall be considered to be in the employ of the apprentice's employer and not subject to this section, unless the apprentice is unemployed. Whenever such work-experience education, or occupational training classes held in the community, are under the supervision of a regional occupational center or program operated by two or more school districts pursuant to Section 52301 of the Education Code, the district of residence of the persons receiving such training shall be deemed the employer for the purposes of this section.

SEC. 5. The Legislature finds and declares that Sections 1, 2, and 4 of this act are intended to clarify the provisions of Sections 51769 and 78249 of the Education Code and Section 3368 of the Labor Code, and thereby to promote and to facilitate the uniform administration of such provisions throughout the state. It is the further intent of the Legislature that this act does not add any new responsibilities, risks, or duties to any employer. It is therefore the intent of the Legislature in Sections 1, 2 and 4 of this act only to declare, preserve, and to clarify the original intent and existing statutory law.

## CHAPTER 1166

An act to amend Sections 10809.5, 11202, 11205, 11213, 11214, 11450, 15200 of, to amend the heading of Article 5 (commencing with Section 11400) of Chapter 2 of Part 3 of Division 9 of, to amend and renumber Sections 11400, 11401 and 11402 of, to add Sections 11400, 11401, 11401.1, 11401.2, 11402, 11403, 11404, 11405, 11406, and 11407 to, and to repeal Sections 11251, 11404, and 11405 of, the Welfare and Institutions Code, relating to services for needy children.

[Approved by Governor September 27, 1980. Filed with  
Secretary of State September 29, 1980 ]

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

SECTION 1. Section 10809.5 of the Welfare and Institutions Code as amended by Chapter 32 of the Statutes of 1980, is amended to read:

10809.5. Each county welfare department shall submit to the Department of Finance each month a copy of the monthly report of caseloads and expenditures submitted by the counties to the State Department of Social Services on the 237 report series entitled "Caseload Movement and Expenditure Report," relating to the following categories of assistance:

- (1) Aid to the aged
- (2) Aid to the blind and potentially self-supporting blind
- (3) Aid to the disabled
- (4) Aid to families with dependent children—unemployed persons
- (5) Aid to families with dependent children—family groups
- (6) Aid to families with dependent children—foster care
- (7) General home relief

The report shall be submitted to the Department of Finance at the same time that the report is submitted to the State Department of Social Services. Upon the request of the Joint Legislative Budget Committee, the Department of Finance shall make the data contained in the respective county reports immediately available to the Joint Legislative Budget Committee. In addition, this data shall be incorporated into and made an integral part of the budget data system.

SEC. 2. Section 11202 of the Welfare and Institutions Code is amended to read:

11202. As used in this chapter, the term "needy child" means a child living in a family as described in Section 11250, or a child as described in Section 11401.

SEC. 3. Section 11205 of the Welfare and Institutions Code is amended to read:

11205. It is the object and purpose of this chapter to provide aid for children whose dependency is caused by circumstances defined in Sections 11250 and 11401, to keep children in their own homes

wherever possible, and to provide the best substitute for their own homes for those children in need of substitute parenting and who have been placed in foster care.

Those engaged in the administration of aid under this chapter are responsible to the community for its effective, humane, and economical administration.

It is the intent of the Legislature that the children shall be given every opportunity to progress in the educational system and that their capacity for such shall not be impaired by nutritional deficiencies. The employment and self-maintenance of parents of needy children shall be encouraged to the maximum extent and this chapter shall be administered in such a way that needy children and their parents will be encouraged and inspired to assist in their own maintenance. The department shall take all steps necessary to implement this section.

SEC. 4. Section 11213 of the Welfare and Institutions Code is amended to read:

11213. For the purpose of developing a more efficient, effective, and equitable Aid to Families With Dependent Children-Foster Care program, the department shall develop:

(a) A management information data base providing expenditure and caseload characteristics information, such as method of entry into AFDC-FC, average cost of placement, type of facility used for placement, and average length of stay in placement.

(b) A quality control system for AFDC-FC, and recommendations to the Legislature regarding resources required for implementation of such system by October 1, 1980.

(c) Recommendations to the Legislature regarding the following:

(1) A system or systems for establishing payment levels for children eligible to the AFDC-FC program.

(2) Plans and resources required for implementation of the selected system or systems by July 1, 1981.

(d) Recommendations to the Legislature regarding defining that segment of the population to be served by the AFDC-FC program, and impact of such definition on the current AFDC-FC population.

The department shall submit by April 1, 1980, to the appropriate policy and fiscal committees of the Legislature a report regarding results of the developmental activities specified in this section.

SEC. 5. Section 11214 of the Welfare and Institutions Code is amended to read:

11214. (a) The department, with the advice and assistance of the counties, shall develop performance standards for the AFDC-FC program for submission to the Joint Legislative Budget Committee by January 1, 1981. The Joint Legislative Budget Committee shall review and comment on the performance standards by February 15, 1981. After considering the committee's comment and review, the department shall adopt performance standards by regulation no later than April 15, 1981. The performance standards shall be measurable objectives for the AFDC-FC program.

Any county which does not meet the performance standards shall be liable for up to the total amount of nonfederal expenditures for aid payments pursuant to subdivision (b) of Section 15200 as determined by the director.

(b) No county shall be reimbursed for any percentage increases in the payments to any foster home, group home, or institution which exceed the percentage cost-of-living increase provided in any fiscal year beginning on or after July 1, 1979, to persons eligible for aid under this chapter and who meet the conditions of this subdivision. This subdivision shall remain in effect only until a program payment system is implemented by the department in accordance with subdivision (c) of Section 11213.

SEC. 6. Section 11251 of the Welfare and Institutions Code is repealed.

SEC. 7. The heading of Article 5 (commencing with Section 11400) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code is amended to read:

#### Article 5. Aid to Families With Dependent Children-Foster Care

SEC. 8. Section 11400 of the Welfare and Institutions Code is amended and renumbered to read:

11407. If, when and during such times as the federal statutes provide federal funds for any child who is granted aid pursuant to subsection (b) of Section 11450, the department shall establish such regulations as are necessary for this state to qualify for any federal funds available.

SEC. 9. Section 11400 is added to the Welfare and Institutions Code, to read:

11400. For the purposes of this article, the following definitions shall apply:

(a) "Aid to Families With Dependent Children-Foster Care (AFDC-FC)" means the aid provided in behalf of needy children in foster care under the terms of this division.

(b) "Family home" means the family residence of a licensee in which 24-hour care and supervision are provided for children.

(c) "Foster care" means the 24-hour out-of-home care provided to children whose own families are unable or unwilling to care for them, and who are in need of temporary or long-term substitute parenting.

(d) "Group home" means a residential home of any capacity that provides services in a group setting to children in need of care and supervision, as required by subdivision (a) (1) of Section 1502 of the Health and Safety Code.

(e) "Placement and care" refers to the responsibility for the welfare of a child vested in an agency or organization by virtue of such agency or organization having (1) been delegated care, custody, and control of a child by the juvenile court, (2) taken responsibility, pursuant to a relinquishment or termination of

parental rights on a child, (3) taken the responsibility of supervising a child detained by the juvenile court pursuant to Section 320 or 636, (4) signed a voluntary placement agreement for the child's placement or the responsibility designated to an individual by virtue of his or her being (1) appointed the child's legal guardian, or (2) delegated care, custody or control of the child by the juvenile court on or before June 30, 1982.

(f) "Relative" means a person who can be a "caretaker relative" of a dependent child under the provisions of Section 406 of the Social Security Act.

(g) "Voluntary placement" means an out-of-home placement of a minor by or with the participation of the county welfare department after the parents or guardians have requested the assistance of the county welfare department and have signed a voluntary placement agreement.

(h) "Voluntary placement agreement" means a written agreement between the county welfare department and the parents or guardians of a minor which specifies the terms of the voluntary placement.

SEC. 10. Section 11401 of the Welfare and Institutions Code is amended and renumbered to read:

11269. No child shall receive aid under this chapter while he is a patient in a public hospital, except with respect to temporary medical or surgical care not exceeding two calendar months, in which event the child shall be eligible to receive not to exceed two monthly warrants after becoming a patient.

SEC. 11. Section 11401 is added to the Welfare and Institutions Code, to read:

11401. Aid in the form of AFDC-FC shall be provided under this chapter on behalf of any child under the age of 18, except as provided in Section 11403, who meets the conditions of subdivision (a), (b), or (c):

(a) The child has been relinquished, for purposes of adoption, by his or her parent or parents, to a licensed private adoption agency, licensed county adoption agency, or the department, or the child has been declared free from the care, custody, and control of either or both of his or her parents after an action under the Civil Code has been brought by such agency, provided:

(1) Such child was receiving aid under this chapter at the time the relinquishment was taken or the petition was granted; or

(2) A civil action is pending to terminate the parental rights of the second parent; or

(3) Subsequent to the relinquishment or termination of parental rights, such child has been found to be unplaceable for adoption.

(b) The child has been deprived of parental support or care due to any of the reasons set out under Section 11250, provided:

(1) Such child has been removed from the physical custody of his or her parent or guardian, and

(A) Has been adjudged a dependent child of the court on the

grounds that he or she is a person described by Section 300, or

(B) Has been adjudged a ward of the court on the grounds that he or she is a person described by Sections 601 and 602, or

(C) Has been detained under a court order pursuant to Section 320 or 636 which remains in effect; or

(2) Such child has been voluntarily placed by his or her parent or guardian pursuant to Section 11401.1 or in a demonstration county, pursuant to Section 16550, et seq.; or

(3) Such child is living in the home of a nonrelated legal guardian.

(c) The child has been placed in foster care under the provisions of the federal Indian Child Welfare Act. The provisions of Sections 11402, 11404, and 11405 shall not be construed as limiting payments to Indian children, as defined in the federal Indian Child Welfare Act, placed in accordance with such act.

SEC. 12. Section 11401.1 is added to the Welfare and Institutions Code, to read:

11401.1. (a) Otherwise eligible children placed voluntarily prior to January 1, 1981, may remain eligible for AFDC-FC payments.

(b) Beginning on January 1, 1982, AFDC-FC payments for children placed voluntarily on or after January 1, 1981, shall be limited to a period of up to six months under conditions specified by departmental regulations.

SEC. 13. Section 11401.2 is added to the Welfare and Institutions Code, to read:

11401.2. AFDC-FC shall be paid to an otherwise eligible child in a voluntary placement in a demonstration county for a period not to exceed six months, with a maximum extension of an additional six months.

SEC. 14. Section 11402 of the Welfare and Institutions Code is amended and renumbered to read:

11408. County claims for aid to needy children placed in foster care, as defined by the rules and regulations of the department, shall be filed separately and distinct from other claims and shall be filed for aid furnished by the county at times and in the manner prescribed by the department. Payments for such children may be made subsequent to the furnishing of care and support to needy children in foster care. Payments may be made at the end of each month for the needy children maintained in foster care during the month.

SEC. 15. Section 11402 is added to the Welfare and Institutions Code, to read:

11402. (a) In order to be eligible for AFDC-FC, a child must be placed in one of the following:

(1) The home of a relative, provided the child is otherwise eligible for federal financial participation in the AFDC-FC payment.

(2) A licensed family home.

(3) A licensed group home, provided that the placement worker has documented that such a placement is necessary to meet the treatment needs of the child and that the facility offers those

treatment services.

(4) The home of a nonrelated legal guardian.

(5) A home which has been certified by a social worker or probation officer as meeting licensing standards, provided that a family home license has been applied for and has not been denied.

(6) A home operated for the exclusive use of a licensed home-finding agency and certified by the agency as meeting licensing standards.

(b) Notwithstanding subdivision (a), AFDC-FC payments shall also be made on behalf of an otherwise eligible child placed in a home by a court order pursuant to subdivision (1) (a) of Section 362, or subdivision (a) of Section 362.5, or subdivision (1) (a) of Section 727, or Section 730 (as it refers to subdivision (1) (a) of Section 727), or Section 731 (as it refers to subdivision (1) (a) of Section 727). Such payments shall not be continued after June 30, 1982.

SEC. 16. Section 11403 is added to the Welfare and Institutions Code, to read:

11403. A child who is in foster care and receiving aid pursuant to this chapter and who is regularly attending school or a training program prior to his or her 18th birthday, may continue to receive aid following his or her 18th birthday so long as the child continues to reside in foster care placement and continues to participate in the education or training program making progress according to standards set by the department. Such aid shall continue until the termination of the education or training program, or until the age of 21 years, whichever occurs first. Aid shall be provided an individual age 18 or older pursuant to this section provided both the individual and the agency responsible for the foster care placement have signed a mutual agreement, if the individual is capable of making an informed agreement, which documents the continued need for out-of-home placement and supports the education or training plan.

SEC. 17. Section 11404 of the Welfare and Institutions Code is repealed.

SEC. 18. Section 11404 is added to the Welfare and Institutions Code, to read:

11404. (a) Except as provided in Section 11405, a child is not eligible for AFDC-FC unless responsibility for placement and care of the child is with the county welfare department, the county probation department which has an agreement with the county welfare department, or a licensed public adoption agency, licensed private adoption agency or the department.

(b) In order for the child to be eligible for AFDC-FC, the agency with responsibility for the child's placement and care must:

(1) Develop a written assessment of the reasons necessitating the child's removal from his or her home and the treatment needs of the child during foster care. This assessment shall be updated no less frequently than once every six months; and

(2) Develop a service plan which specifies how the problems identified in the assessment are to be addressed.

(c) Notwithstanding subdivision (a), AFDC-FC payments shall also be made on behalf of a child for whom the responsibility for care, custody, and control has been designated to an individual pursuant to subdivision (1) (a) of Section 362, or subdivision (a) of Section 362.5, or subdivision (1) (a) of Section 727, or Section 730 (as it refers to subdivision (1) (a) of Section 727), or Section 731 (as it refers to subdivision (1) (a) of Section 727), provided that the county welfare or county probation department is providing to the child the services specified in subdivision (b) of this section. Such payments shall not be continued after June 30, 1982.

SEC. 19. Section 11405 of the Welfare and Institutions Code is repealed.

SEC. 20. Section 11405 is added to the Welfare and Institutions Code, to read:

11405. (a) AFDC-FC shall be paid to an otherwise eligible child living with a nonrelated legal guardian, provided that the legal guardian cooperates with the county welfare department in all of the following:

- (1) Developing an assessment of the child's needs;
- (2) Updating the assessment no less frequently than once every six months;

(3) Carrying out the service plan developed by the county.

(b) When AFDC-FC is applied for on behalf of a child living with a nonrelated legal guardian or a related guardian when the child is otherwise eligible for federal financial participation in AFDC-FC payments, the county welfare department shall:

- (1) Assess the needs of the child;
- (2) Update such assessments no less frequently than once every six months;
- (3) Develop a service plan that specifies how the child's needs, if any, are to be addressed;
- (4) Make visits to the child as often as appropriate, but in no event less often than once every six months.

SEC. 21. Section 11406 is added to the Welfare and Institutions Code, to read:

11406. (a) No later than January 1, 1982, the department, with the advice and assistance of the counties, shall submit a report to the Legislature with regard to arrangements for the care of children by a nonrelated legal guardian, and include in such report recommendations as to:

(1) The type of aid payment system or systems which should be adopted.

(2) Whether the homes of nonrelated legal guardians meet the health and safety needs of children.

(3) The types and objectives of social services which should be provided to children living with nonrelated legal guardians.

(4) The role and appropriateness of guardianship as a component of permanency planning for children.

The purpose of the report shall be to ensure that AFDC-FC funded

children living in the homes of nonrelated legal guardians are receiving appropriate aid and services.

(b) No later than January 1, 1982, the department, with the advice and assistance of the counties, shall report to the Legislature with regard to the characteristics of placements made in accordance with the provisions of paragraph (5) of subdivision (a) of Section 11402, and shall make recommendations regarding whether such unlicensed placements can and should be redefined, minimized, or eliminated. The purpose of the report shall be to ensure that children are receiving the best possible care.

(c) No later than January 1, 1982, the department, with the advice and assistance of the counties, shall report to the Legislature with regard to entities licensed to operate more than one group home. The purpose of the report shall be to assess the appropriateness of:

(1) Licensing standards for such facilities.

(2) Whether or not present funding arrangements ensure fiscal accountability for AFDC-FC payments.

(3) The delivery of social services to children in such placements.

SEC. 22. Section 11450 of the Welfare and Institutions Code is amended to read:

11450. (a) For each needy family which includes one or more needy children qualified for aid under this chapter, there shall be paid, notwithstanding minimum basic standards of adequate care established by the department under Section 11452, an amount of aid each month which when added to his income, exclusive of any amounts considered exempt as income or paid pursuant to subdivision (d) or Section 11453.1, is equal to the sums specified in the following table, as adjusted for cost-of-living increases pursuant to Section 11453:

Number of eligible needy persons in the same home	Maximum aid
1 .....	\$166
2 .....	273
3 .....	338
4 .....	402
5 .....	459
6 .....	516
7 .....	566
8 .....	616
9 .....	666
10 or more .....	716

If, when and during such times as the United States government increases or decreases its contributions in assistance of needy children in this state above or below the amount paid on July 1, 1972, the amounts specified in the above table shall be increased or

decreased by an amount equal to such increase or decrease by the United States government, provided that no such increase or decrease shall be subject to subsequent adjustment pursuant to Section 11453.

(b) For children receiving AFDC-FC under the provisions of this chapter, there shall be paid the sum necessary for the adequate care of each child.

(c) (1) In addition to the amounts payable under subdivision (a) and Section 11453.1, a family shall be entitled to receive an allowance for recurring special needs not common to a majority of recipients. Such recurring special needs shall include but not be limited to special diets upon the recommendation of a physician, and unusual costs of transportation, laundry, housekeeping service, telephone, and utilities. The recurring special needs allowance for each family per month shall not exceed that amount resulting from multiplying the sum of ten dollars (\$10) by the number of recipients in the family who are eligible for assistance.

(2) A family shall also be entitled to receive an allowance for nonrecurring special needs caused by sudden and unusual circumstances beyond the control of the needy family; provided, however, that such needs shall not be taken into consideration in determining the eligibility of the family for aid.

(3) The department shall establish rules and regulations assuring the uniform application statewide of the provisions of this subdivision.

(d) Except for the purposes of Section 15200, the amounts payable to recipients pursuant to Section 11453.1 shall not constitute part of the payment schedule set forth in subdivision (a) of this section.

The amounts payable to recipients pursuant to Section 11453.1 shall not constitute income to recipients of aid under this section.

SEC. 22.1. Section 11450 of the Welfare and Institutions Code is amended to read:

11450. (a) For each needy family which includes one or more needy children qualified for aid under this chapter, there shall be paid, notwithstanding minimum basic standards of adequate care established by the department under Section 11452, an amount of aid each month which when added to his income, exclusive of any amounts considered exempt as income or paid pursuant to subdivision (d) or Section 11453.1, is equal to the sums specified in the following table, as adjusted for cost-of-living increases pursuant to Section 11453:

Number of eligible needy persons in the same home	Maximum aid
1 .....	\$227
2 .....	374
3 .....	463

4 .....	550
5 .....	628
6 .....	706
7 .....	775
8 .....	844
9 .....	912
10 or more .....	981

If, when and during such times as the United States government increases or decreases its contributions in assistance of needy children in this state above or below the amount paid on July 1, 1972, the amounts specified in the above table shall be increased or decreased by an amount equal to such increase or decrease by the United States government, provided that no such increase or decrease shall be subject to subsequent adjustment pursuant to Section 11453.

(b) For children receiving AFDC-FC under the provisions of this chapter, there shall be paid the sum necessary for the adequate care of each child.

(c) (1) In addition to the amounts payable under subdivision (a) and Section 11453.1, a family shall be entitled to receive an allowance for recurring special needs not common to a majority of recipients. Such recurring special needs shall include but not be limited to special diets upon the recommendation of a physician, and unusual costs of transportation, laundry, housekeeping service, telephone, and utilities. The recurring special needs allowance for each family per month shall not exceed that amount resulting from multiplying the sum of ten dollars (\$10) by the number of recipients in the family who are eligible for assistance.

(2) A family shall also be entitled to receive an allowance for nonrecurring special needs caused by sudden and unusual circumstances beyond the control of the needy family; provided, however, that such needs shall not be taken into consideration in determining the eligibility of the family for aid.

(3) The department shall establish rules and regulations assuring the uniform application statewide of the provisions of this subdivision.

(d) Except for the purposes of Section 15200, the amounts payable to recipients pursuant to Section 11453.1 shall not constitute part of the payment schedule set forth in subdivision (a) of this section.

The amounts payable to recipients pursuant to Section 11453.1 shall not constitute income to recipients of aid under this section.

SEC. 23. Section 15200 of the Welfare and Institutions Code is amended to read:

15200. There is hereby appropriated out of any money in the State Treasury not otherwise appropriated, and after deducting federal funds available, the following sums:

(a) To each county for the support and maintenance of needy children, 89.2 percent of the sums specified in subdivision (a), and

paragraphs (1) and (2) of subdivision (d), of Section 11450.

(b) To each county for the adequate care of each child pursuant to subdivision (b) of Section 11450 the following amounts:

(1) The sum necessary for the adequate care of each child but not to exceed in any month the product of one hundred twenty dollars (\$120) multiplied by the number of children in each county receiving foster care. The state shall pay 67.5 percent and the county shall pay 32.5 percent of the aid furnished for the adequate care of such children.

(2) The state shall reimburse counties for the nonfederal costs of providing an additional twelve dollars and fifty cents (\$12.50) a month per eligible child to foster parents. In addition the state may, at its discretion, pay on a pro rata basis from funds specifically appropriated in the Budget Act additional aid for the adequate care of foster children receiving aid under subdivision (b) of Section 11450.

The financial benefit accruing from the additional funds available under this paragraph shall be passed on to foster parents in order to more adequately reimburse foster parents for their expense, and to enable counties to more readily recruit and retain a selection of homes suited to the diversified needs of the individual child and the counties shall not substitute the additional state funds received under this paragraph for county funds being expended for foster care at the time when this section takes effect.

(c) To each county for the support and care of hard-to-place children, the amount specified in Section 16120.

(d) This section shall become operative on January 1, 1984.

SEC. 24. Notwithstanding Sections 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections, because no additional costs are mandated by this act since all new duties imposed by this act are already required to be performed by state regulation. 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 this code.

SEC. 25. It is the intent of the Legislature, if this bill and Assembly Bill 2982 are both chaptered and become effective January 1, 1981, both bills amend Section 11450 of the Welfare and Institutions Code, and this bill is chaptered after Assembly Bill 2982, that the amendments to Section 11450 proposed by both bills be given effect and incorporated in Section 11450 in the form set forth in Section 22.1 of this act. Therefore, Section 22.1 of this act shall become operative only if this bill and Assembly Bill 2982 are both chaptered and become effective January 1, 1981, both amend Section 11450, and this bill is chaptered after Assembly Bill 2982, in which case Section 22 of this act shall not become operative.

## CHAPTER 1167

An act to amend Section 1395 of the Health and Safety Code, relating to health care service plans.

[Approved by Governor September 27, 1980. Filed with Secretary of State September 29, 1980 ]

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

SECTION 1. Section 1395 of the Health and Safety Code is amended to read:

1395. (a) Notwithstanding Article 6 (commencing with Section 650) of Chapter 1 of Division 2 of the Business and Professions Code, any health care service plan or specialized health care service plan may, except as limited by this subdivision, solicit or advertise with regards to the cost of subscription or enrollment, facilities and services rendered, provided, however, Article 5 (commencing with Section 600) of Chapter 1 of Division 2 of the Business and Professions Code remains in effect. Any price advertisement shall be exact, without the use of such phrases as "as low as," "and up," "lowest prices" or words or phrases of similar import. Any advertisement which refers to services, or costs for such services, and which uses words of comparison must be based on verifiable data substantiating the comparison. Any health care service plan or specialized health care service plan so advertising shall be prepared to provide information sufficient to establish the accuracy of such comparison. Price advertising shall not be fraudulent, deceitful, or misleading, nor contain any offers of discounts, premiums, gifts, or bait of similar nature. In connection with price advertising, the price for each product or service shall be clearly identifiable. The price advertised for products shall include charges for any related professional services, including dispensing and fitting services, unless the advertisement specifically and clearly indicates otherwise.

(b) Plans licensed under this chapter shall not be deemed to be engaged in the practice of a profession, and may employ, or contract with, any professional licensed pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code to deliver professional services. Employment by or a contract with a plan as a provider of professional services shall not constitute a ground for disciplinary action against a health professional licensed pursuant to Division 2 (commencing with Section 500) of the Business and Professions Code by a licensing agency regulating a particular health care profession.

(c) A health care service plan licensed under this chapter may directly own, and may directly operate through its professional employees or contracted licensed professionals, such offices as are necessary to provide health care services to the plan's subscribers and enrollees.

(d) A professional licensed pursuant to the provisions of Division 2 (commencing with Section 500) of the Business and Professions Code who is employed by, or under contract to, a plan may not own or control offices or branch offices beyond those expressly permitted by the provisions of the Business and Professions Code.

(e) Nothing in this chapter shall be construed to repeal, abolish or diminish the effect of Section 431 of the Health and Safety Code.

(f) Except as specifically provided in this chapter, nothing in this chapter shall be construed to limit the effect of the laws governing professional corporations, as they appear in applicable provisions of the Business and Professions Code, upon specialized health care service plans.

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 this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction. 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.

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## CHAPTER 1168

An act to amend Sections 20023.6, 20027, 20685, 20950, and 21338 of, to add Section 20615 to, to repeal and add Sections 20160 and 20614 of, and to repeal Sections 20161, 20162, 20951, 20951.5, 20952.6, 21332.5, and 21362 of, the Government Code, relating to public retirement systems, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1980 Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. Section 20023.6 of the Government Code is amended to read:

20023.6. The compensation earnable during any period of service as a member of the Judges' Retirement System, the Legislators' Retirement System, or the State Teachers' Retirement System shall be considered compensation earnable as a member of this system for purposes of computing final compensation for such member providing he retires concurrently under both systems.

A member shall be deemed to have retired concurrently under this system and under the State Teachers' Retirement System if the member is enrolled as a disabilitant under the State Teachers' Retirement System and for disability retirement under this system on the same effective date.

SEC. 3. Section 20027 of the Government Code is amended to read:

20027. "Normal contributions" means contributions required to be paid by a member at the normal rates of contribution fixed by the law, by contract, or by contract amendment, but does not include additional contributions.

"Normal contributions" also includes contributions required to be paid by a member which are in fact paid on behalf of a member by a contracting agency.

SEC. 4. Section 20160 of the Government Code is repealed.

SEC. 5. Section 20160 is added to the Government Code, to read:

20160. Each state agency, school employer, the Comptroller of the University or such other official as the university may designate, and the chief administrative officer of a contracting agency or such other person as its governing body may designate shall furnish all of the following:

(a) Immediate written notice to the board of the change in status of any member resulting from transfer, promotion, leave of absence, resignation, reinstatement, dismissal, or death.

(b) Such additional information concerning any such member as the board may require in the administration of the system.

(c) Such services of its officer and departments as the board may request in connection with claims by such members against this system.

SEC. 6. Section 20161 of the Government Code is repealed.

SEC. 7. Section 20162 of the Government Code is repealed.

SEC. 8. Section 20614 of the Government Code is repealed:

SEC. 9. Section 20614 is added to the Government Code, to read:

20614. Contract amendments, and that portion of a contract which subjected an employer to former Section 20614 as it read prior to its repeal in 1980 at the 1979-80 Regular Session of the Legislature, may be revoked prospectively in the manner provided for the approval of contracts, including an election among employees affected.

SEC. 10. Section 20615 is added to the Government Code, to read:

20615. Notwithstanding any other provision of law, a contracting agency may pay all or a portion of the normal contributions required to be paid by a member. Such payments shall be reported simply as normal contributions and shall be credited to member accounts.

Nothing in this section shall be construed to limit the authority of a contracting agency to periodically increase, reduce, or eliminate the payment by the contracting agency of all or a portion of the normal contributions required to be paid by a member, as authorized by this section.

SEC. 11. Section 20685 of the Government Code is amended to read:

20685. (a) If a basic death benefit has become or becomes payable before the payment of the total amount the member elected to pay under any election with respect to normal contributions,

arrears contributions, or public service credit permitted under this part, the member's entire compensation, or the service upon which that total amount was based, as the case may be, shall be included in the computation of the portion of the death benefit which is provided in subdivision (b) of Section 21361, and the unpaid balance of the total amount shall not be paid to this system, nor shall it be included in the member's accumulated contributions which constitute a part of the basic death benefit.

(b) Any balance of any such total amount remaining unpaid at the death of the member on account of whom a special death benefit is payable or at the retirement of a member for industrial disability shall become due and payable forthwith, except that the survivor of a member who died under circumstances under which a special death benefit is payable and who had authorized payroll deductions, in accordance with Section 20654, may elect to continue such deductions from the survivor allowance in lieu of the lump-sum payment otherwise required. If the balance is not paid, the portion of such unpaid amount representing contributions on compensation earned in the membership applicable to the member at the time of injury resulting in death shall be deducted from the benefit otherwise payable and the system shall be discharged from any liability for any annuity or benefit with respect to any remainder of such unpaid contribution.

(c) Any balance of such total amount remaining unpaid at the time of retirement for service or ordinary disability, or at death, with respect to which a benefit is payable under Section 21365.5 shall become due and payable forthwith, except that the survivor of a member who died under circumstances under which a benefit under Section 21365.5 is payable and who had authorized payroll deductions, in accordance with Section 20654, may elect to continue such deductions from the survivor allowance in lieu of a lump-sum payment of the balance due. If the balance is not paid, the service credit included in the election shall be reduced proportionately and any prior service dependent on completion of payments eliminated for purposes of computing the allowance but not for purposes of determining entitlement to an allowance.

(d) Notwithstanding any provision of subdivision (b) or (c), a member who retires after January 1, 1976, before payment of the total amount which he elected to pay, may elect to pay the balance due by deductions from his retirement allowance equal to those which he authorized as payroll deductions in accordance with Section 20654. In such case service credit included in the election shall not be reduced, nor shall any prior service dependent on completion of payments be eliminated for purposes of computing the allowance. Any balance of such total amount remaining unpaid upon the death of such member shall be treated in the same manner as unpaid balances are treated if a special death benefit is payable, except that the survivor of a retired member who had authorized deductions from his retirement allowance in accordance with this

subdivision, and who is eligible for a monthly allowance, may elect to continue such deductions from his allowance in lieu of the lump-sum payment otherwise required.

SEC. 12. Section 20950 of the Government Code is amended to read:

20950. A member shall be retired for service upon his written application to the board if he has attained age 50 and is credited with five years of state service, except as provided in Sections 20952 and 20952.5.

SEC. 13. Section 20951 of the Government Code is repealed.

SEC. 14. Section 20951.5 of the Government Code is repealed.

SEC. 17. Section 20952.6 of the Government Code is repealed.

SEC. 18. Section 21332.5 of the Government Code is repealed.

SEC. 19. Section 21338 of the Government Code is amended to read:

21338. A member retiring for service who is credited with state service, the compensation for which was subject to contribution pursuant to Section 218 of the Social Security Act, and who is fully insured under the federal system but is not entitled to receive, on his application therefor, a retirement or disability benefit under such system may elect to have the actuarial equivalent of his unmodified service retirement allowance paid in two parts:

(a) A temporary annuity which shall not exceed the primary social security benefit which it is anticipated the member will be entitled to receive at age 62 or 65, whichever shall be designated by the member, plus

(b) A life income consisting of his service retirement annuity plus such pension as may be provided by the actuarial value of his current and prior service pensions remaining after providing the temporary annuity in (a).

The temporary annuity under (a) shall not be subject to further optional settlement under this article and shall be payable monthly until the retired member attains or would attain the age designated by the member under subdivision (a). If his death occurs prior to such age, the commuted value of any remaining installments shall be paid to his designated beneficiary in a lump sum.

This section shall not apply to an allowance based on service with respect to which a member is subject to Section 21252.5.

SEC. 20. Section 21362 of the Government Code is repealed.

SEC. 21. 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 be implemented on the commencement of the 1980-81 fiscal year, it is necessary that this take effect immediately.

## CHAPTER 1169

An act to amend Section 5202 of the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 27, 1980 Filed with  
Secretary of State September 29, 1980 ]

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

SECTION 1. Section 5202 of the Welfare and Institutions Code is amended to read:

5202. The person or agency designated by the county shall prepare the petition and all other forms required in the proceeding, and shall be responsible for filing the petition. Before filing the petition, the person or agency designated by the county shall request the person or agency designated by the county and approved by the State Department of Mental Health to provide prepetition screening to determine whether there is probable cause to believe the allegations. The person or agency providing prepetition screening shall conduct a reasonable investigation of the allegations and make a reasonable effort to personally interview the subject of the petition. The screening shall also determine whether the person will agree voluntarily to receive crisis intervention services or an evaluation in his own home or in a facility designated by the county and approved by the State Department of Mental Health. Following prepetition screening, the person or agency designated by the county shall file the petition if satisfied that there is 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, and that the person will not voluntarily receive evaluation or crisis intervention.

If the petition is filed, it shall be accompanied by a report containing the findings of the person or agency designated by the county to provide prepetition screening. The prepetition screening report submitted to the superior court shall be confidential and shall be subject to the provisions of Section 5328.

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 1170

An act to add and repeal Article 3.2 (commencing with Section 27350) to Chapter 5 of Division 12 of the Vehicle Code, relating to vehicles, and making an appropriation therefor.

[Approved by Governor September 27, 1980. Filed with Secretary of State September 29, 1980.]

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

SECTION 1. Article 3.2 (commencing with Section 27350) is added to Chapter 5 of Division 12 of the Vehicle Code, to read:

Article 3.2. Child Passenger Seat Restraints

27350. The Legislature finds and declares that in California each year more than 200 children under 15 years of age are killed, and more than 20,000 children are injured, as passengers in motor vehicle accidents. Motor vehicle accidents are the single leading cause of death and a major cause of disability among children one to 15 years of age. A multiplicity of field studies confirm that a majority of serious injuries and deaths would be avoided if child passengers were properly restrained by using seat restraint systems presently available in most motor vehicles. Notwithstanding this fact, current seat restraint utilization rates among children are typically less than 10 percent, making this both a leading area of child neglect and the most promising area for the reduction of deaths and serious injuries among children.

In furtherance of reasonable, protective public policies, the Secretary of the Business and Transportation Agency shall develop and implement the following sequential program designed to encourage seat restraint utilization for infants and children under 15 years of age who are passengers in motor vehicles.

27351. (a) The secretary shall prepare and disseminate materials for the purpose of educating the public about the importance of using seat restraints for infants and children under 15 years of age who are passengers in motor vehicles. Such materials shall include, but not be limited to, audiovisual aids and written materials which explain the effects of motor vehicle accidents on infant and child health and the reduction in risk of injury or death as a result of the utilization of seat restraints for infants and children. In addition, the secretary shall prepare and disseminate radio and television messages which explain the effects of motor vehicle accidents on infant and child health and urge the use of seat restraints for infants and children. No more than 20 percent of any funds expended pursuant to this subdivision shall be expended for administrative purposes.

(b) Within one year after commencement of the public education

campaign specified in subdivision (a), the secretary shall enter into an arrangement with appropriate law enforcement agencies to issue, at their discretion, an oral hazard warning to any person who operates any motor vehicle, or combination of vehicles, if, after the vehicle has been stopped, the law enforcement officer observes that an infant or child under 15 years of age is a passenger and is not restrained by use of an available seat restraint. Such law enforcement officers may also advise and urge the utilization of seat restraints that are available in the vehicle, and may further note that, for children under five years of age, even greater protection could be provided by acquiring and properly utilizing a separate, federally approved child restraint.

27352. (a) The secretary shall conduct a study to ascertain:

(1) The seat restraint and child restraint utilization rates for infants and children under 15 years of age during the period prior to the commencement of the public education campaign specified in subdivision (a) of Section 27351; at the conclusion of the first four to six months of the public education campaign specified in subdivision (a) of Section 27351; during the first six months in which oral hazard warnings are issued as specified in subdivision (b) of Section 27351; and during a period, to be determined by the secretary, after the first six months in which oral hazard warnings are issued as specified in subdivision (b) of Section 27351.

(2) The nature and extent of any reduction in the number and rate of injury (according to severity) and death of infants and children under 15 years of age who are passengers in motor vehicles during the period of the public education campaign specified in subdivision (a) of Section 27351; and during the period in which oral hazard warnings are issued as specified in subdivision (b) of Section 27351.

(b) The secretary shall prepare and submit a report to the Legislature, no later than April 1, 1983, containing findings and conclusions regarding the implementation and effectiveness of Section 27351 and the other provisions of this article. The report shall also include specific findings and conclusions as to the advisability of legislation requiring the issuance of a citation to any person who operates any motor vehicle, or combination of vehicles, in which an infant or child passenger under 15 years of age is not restrained by the use of a seat restraint available in the vehicle.

27353. (a) The secretary may elect to conduct the program and study specified in Sections 27351 and 27352 as a controlled pilot project in no less than two cities with a combined population of at least 200,000, or in no less than two counties.

(b) The secretary may contract for services with appropriate agencies to design and implement selected aspects of the program and study.

(c) The secretary shall designate a specific person, with adequate staff support, whose principal responsibility shall be to coordinate all aspects of implementing this chapter and who shall be accountable

directly to the secretary.

27354. This article shall not apply to schoolbuses.

27355. This article shall be known and may be cited as the California Child Passenger Protection Act of 1980.

27356. This article 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. The Secretary of the Business and Transportation Agency shall attempt to obtain federal funding for the costs incurred under this act. In the event federal funds have not been secured on or before January 1, 1981, the sum of one hundred fifty thousand dollars (\$150,000) from the Motor Vehicle Account in the State Transportation Fund is hereby appropriated to the Secretary of the Business and Transportation Agency for costs incurred pursuant to Article 3.2 (commencing with Section 27350) of Chapter 5 of Division 12 of the Vehicle Code.

In the event that federal funds are obtained for the purposes of this act, the costs incurred pursuant to Article 3.2 shall be funded from those federal funds.

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## CHAPTER 1171

An act to add Article 1 (commencing with Section 18600) to Chapter 9 of Part 6 of Division 9 of the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 27, 1980. Filed with  
Secretary of State September 29, 1980 ]

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

SECTION 1. Article 1 (commencing with Section 18600) is added to Chapter 9 of Part 6 of Division 9 of the Welfare and Institutions Code, to read:

### Article 1. Services

18600. There is hereby established a two-year pilot project under which the State Department of Rehabilitation shall contract with private nonprofit organizations serving the blind to provide the newly blind and severely visually impaired persons 55 years of age or older with the following services as needed:

- (a) Counseling.
- (b) Personal adjustment including instruction in daily living skills.
- (c) Instruction in orientation and mobility.

As used in this article a severely visually impaired person shall be defined as a person who, with best corrected vision, is unable to read newsprint.

18601. Each year providers of services will supply the Legislative Analyst with program evaluation and evidence of cost effectiveness and the Legislative Analyst shall submit annual reports to the Legislature concerning the cost effectiveness of the pilot project.

SEC. 2. The funds necessary to carry out the provisions for the second year of the duration of this program shall be subject to appropriation through the Budget Act of 1981-82.

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## CHAPTER 1172

An act to repeal Section 851.8 of, and to add Sections 851.8 and 851.85 to, the Penal Code, relating to arrest records, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1980 Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. Section 851.8 of the Penal Code is repealed.

SEC. 2. Section 851.8 is added to the Penal Code, to read:

851.8. (a) In any case where a person has been arrested and no accusatory pleading has been filed, the person arrested may petition the law enforcement agency having jurisdiction over the offense to destroy its records of the arrest. A copy of such petition shall be served upon the district attorney of the county having jurisdiction over the offense. The law enforcement agency having jurisdiction over the offense, upon a determination that the person arrested is factually innocent, shall, with the concurrence of the district attorney, seal its arrest records, and the petition for relief under this section for three years from the date of the arrest and thereafter destroy its arrest records and the petition. The law enforcement agency having jurisdiction over the offense shall notify the Department of Justice, and any law enforcement agency which arrested the petitioner or participated in the arrest of the petitioner for an offense for which the petitioner has been found factually innocent under this subdivision, of the sealing of the arrest records and the reason therefor. The Department of Justice and any law enforcement agency so notified shall forthwith seal their records of the arrest and the notice of sealing for three years from the date of the arrest, and thereafter destroy their records of the arrest and the notice of sealing. The law enforcement agency having jurisdiction over the offense and the Department of Justice shall request the destruction of any records of the arrest which they have given to any local, state, or federal agency or to any other person or entity. Each such agency, person, or entity within the State of California receiving such a request shall destroy its records of the arrest and such request, unless otherwise provided in this section.

(b) If, after receipt by both the law enforcement agency and the district attorney of a petition for relief under subdivision (a), the law enforcement agency and district attorney do not respond to the petition by accepting or denying such petition within 60 days after the running of the relevant statute of limitations or within 60 days after receipt of the petition in cases where the statute of limitations has previously lapsed, then the petition shall be deemed to be denied. In any case where the petition of an arrestee to the law enforcement agency to have an arrest record destroyed is denied, petition may be made to the municipal or justice court which would have had territorial jurisdiction over the matter. A copy of such petition shall be served on the district attorney of the county having jurisdiction over the offense at least 10 days prior to the hearing thereon. The district attorney may present evidence to the court at such hearing. Notwithstanding Section 1538.5 or 1539, any judicial determination of factual innocence made pursuant to this section may be heard and determined upon declarations, affidavits, police reports, or any other evidence submitted by the parties which is material, relevant and reliable. A finding of factual innocence and an order for the sealing and destruction of records pursuant to this section shall not be made unless the court finds that no reasonable cause exists to believe that the arrestee committed the offense for which the arrest was made. In any court hearing to determine the factual innocence of a party, the initial burden of proof shall rest with the petitioner to show that no reasonable cause exists to believe that the arrestee committed the offense for which the arrest was made. If the court finds that this showing of no reasonable cause has been made by the petitioner, then the burden of proof shall shift to the respondent to show that a reasonable cause exists to believe that the petitioner committed the offense for which the arrest was made. If the court finds the arrestee to be factually innocent of the charges for which the arrest was made, then the court shall order the law enforcement agency having jurisdiction over the offense, the Department of Justice, and any law enforcement agency which arrested the petitioner or participated in the arrest of the petitioner for an offense for which the petitioner has been found factually innocent under this section to seal their records of the arrest and the court order to seal and destroy such records, for three years from the date of the arrest and thereafter to destroy their records of the arrest and the court order to seal and destroy such records. The court shall also order the law enforcement agency having jurisdiction over the offense and the Department of Justice to request the destruction of any records of the arrest which they have given to any local, state, or federal agency, person or entity. Each state or local agency, person or entity within the State of California receiving such a request shall destroy its records of the arrest and the request to destroy such records, unless otherwise provided in this section. The court shall give to the petitioner a copy of any court order concerning the destruction of the arrest records.

(c) In any case where a person has been arrested, and an accusatory pleading has been filed, but where no conviction has occurred, the defendant may, at any time after dismissal of the action, petition the court which dismissed the action for a finding that the defendant is factually innocent of the charges for which the arrest was made. A copy of such petition shall be served on the district attorney of the county in which the accusatory pleading was filed at least 10 days prior to the hearing on the petitioner's factual innocence. The district attorney may present evidence to the court at such hearing. Such hearing shall be conducted as provided in subdivision (b). If the court finds the petitioner to be factually innocent of the charges for which the arrest was made, then the court shall grant the relief as provided in subdivision (b).

(d) In any case where a person has been arrested and an accusatory pleading has been filed, but where no conviction has occurred, the court may, with the concurrence of the district attorney, grant the relief provided in subdivision (b) at the time of the dismissal of the accusatory pleading.

(e) Whenever any person is acquitted of a charge and it appears to the judge presiding at the trial wherein such acquittal occurred that the defendant was factually innocent of such charge, the judge may grant the relief provided in subdivision (b).

(f) In any case where a person who has been arrested is granted relief pursuant to subdivision (a) or (b), the law enforcement agency having jurisdiction over the offense or court shall issue a written declaration to the arrestee stating that it is the determination of the law enforcement agency having jurisdiction over the offense or court that the arrestee is factually innocent of the charges for which he was arrested and that the arrestee is thereby exonerated. Thereafter, the arrest shall be deemed not to have occurred and the person may answer accordingly any question relating to its occurrence.

(g) The Department of Justice shall furnish forms to be utilized by persons applying for the destruction of their arrest records and for the written declaration that one person was found factually innocent under subdivisions (a) and (b).

(h) Documentation of arrest records destroyed pursuant to subdivision (a), (b), (c), (d), or (e) which are contained in investigative police reports shall bear the notation "Exonerated" whenever reference is made to the arrestee. The arrestee shall be notified in writing by the law enforcement agency having jurisdiction over the offense of the sealing and destruction of the arrest records pursuant to this section.

(i) Any finding that an arrestee is factually innocent pursuant to subdivision (a), (b), (c), (d), or (e) shall not be admissible as evidence in any action.

(j) Destruction of records of arrest pursuant to subdivision (a), (b), (c), (d), or (e) shall be accomplished by permanent obliteration of all entries or notations upon such records pertaining to the arrest, and the record shall be prepared again so that it appears that the

arrest never occurred. However, where (1) the only entries on the record pertain to the arrest 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.

(k) No records shall be destroyed pursuant to subdivision (a), (b), (c), (d), or (e) if the arrestee 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 such records has received a certified copy of the complaint in such civil action, until the civil action has been resolved. Any records sealed pursuant to this section by the court in the civil actions, upon a showing of good cause, may be opened and submitted into evidence. The records shall be confidential and shall be available for inspection only by the court, jury, parties, counsel for the parties and any other person authorized by the court. Immediately following the final resolution of the civil action, records subject to subdivision (a), (b), (c), (d), or (e) shall be sealed and destroyed pursuant to subdivision (a), (b), (c), (d), or (e).

(l) For arrests occurring on or after January 1, 1981, and for accusatory pleadings filed on or after January 1, 1981, petitions for relief under this section may be filed up to two years from the date of the arrest or filing of the accusatory pleading, whichever is later. Until January 1, 1983, petitioners can file for relief under this section for arrests which occurred or accusatory pleadings which were filed up to five years prior to the effective date of the statute. Any time restrictions on filing for relief under this section may be waived upon a showing of good cause by the petitioner and in the absence of prejudice.

(m) Any relief which is available to a petitioner under this section for an arrest shall also be available for an arrest which has been deemed to be or described as a detention under Section 849.5 or 851.6.

(n) The provisions of this section shall not apply to any offense which is classified as an infraction.

(o) (1) The provisions of this section shall be repealed on the effective date of a final judgment based on a claim under the California or United States Constitution holding that evidence which is relevant, reliable, and material may not be considered for purposes of a judicial determination of factual innocence under this section. For purposes of this subdivision, a judgment by the appellate department of a superior court is a final judgment if it is published and if it is not reviewed on appeal by a district court of appeal. A judgment of a district court of appeal is a final judgment if it is published and if it is not reviewed by the California Supreme Court.

(2) Any such decision referred to in this subdivision shall be stayed pending appeal.

(3) If not otherwise appealed by a party to the action, any such decision referred to in this subdivision which is a judgment by the appellate department of the superior court, shall be appealed by the

Attorney General.

SEC. 3. Section 851.85 is added to the Penal Code, to read:

851.85. Whenever a person is acquitted of a charge and it appears to the judge presiding at the trial wherein such acquittal occurred that the defendant was factually innocent of the charge, the judge may order that the records in the case be sealed, including any record of arrest or detention, upon the written or oral motion of any party in the case or the court, and with notice to all parties to the case. If such an order is made, the court shall give to the defendant a copy of such order and inform the defendant that he may thereafter state that he was not arrested for such charge and that he was found innocent of such charge by the court.

SEC. 4. If the provisions of Section 851.8 of the Penal Code as added by Section 2 of this act are repealed pursuant to subdivision (o) of Section 851.8, then Section 3 of this act shall be operative on the operative date of the repeal of Section 851.8.

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. 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:

This act provides an urgently needed procedure for the sealing and destruction of specified arrest records. In order that this procedure be made available at the earliest possible time, it is necessary that this act take effect immediately.

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## CHAPTER 1173

An act to add Section 14005.14 to the Welfare and Institutions Code, relating to public social services.

[Approved by Governor September 27, 1980. Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. Section 14005.14 is added to the Welfare and Institutions Code, to read:

14005.14. In addition to the income exemptions specified in subdivision (a) of Section 14005.7, an income exemption shall be allowed each month for the amount actually paid toward the cost of in-home supportive services needed as determined under standards

and procedures established by the Director of Social Services, by a person who is eligible for Medi-Cal in accordance with Section 14005.3. For the purpose of this section, "in-home supportive services" means those services that are available to recipients of the In-Home Supportive Services Program as defined by the Director of Social Services in regulations adopted pursuant to Article 7 (commencing with Section 12300) of Chapter 3 of Part 3 of Division 9.

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## CHAPTER 1174

An act to amend Section 1255.3 of the Unemployment Insurance Code, relating to unemployment, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1980. Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. Section 1255.3 of the Unemployment Insurance Code is amended to read:

1255.3. (a) Except as provided by subdivision (c), the amount of unemployment compensation benefits, extended duration benefits, and federal-state extended benefits payable to an individual for any week which begins after March 31, 1980, and which begins in a period with respect to which such individual is receiving a governmental or other pension, retirement or retired pay, annuity, or any other similar periodic payment which is based on the previous work of such individual shall be reduced, but not below zero, by an amount equal to the amount of such pension, retirement or retired pay, annuity, or other payment, which is reasonably attributable to such week.

(b) The provisions of subdivision (a) shall be operative only during such time as Section 3304 of the Federal Unemployment Tax Act requires that state unemployment insurance laws contain such provisions as a condition of certification of state unemployment insurance laws by the Secretary of Labor.

(c) The reduction of benefits specified in subdivision (a) shall be limited by the provisions of any amendment to paragraph (15) of Section 3304(a) of the Federal Unemployment Tax Act, enacted before January 1, 1981, which mandates or permits a limitation on the reduction of unemployment compensation benefits by the amount of a pension, retirement or retired pay to an individual, as described in subdivision (a). This subdivision shall only apply to benefits paid after the effective date of the amendment to paragraph (15) of Section 3304(a) of the Federal Unemployment Tax Act.

SEC. 2. No appropriation is made by this act, nor is any obligation created thereby, pursuant to Section 2231 or 2234 of the Revenue and

Taxation Code. Moreover, no claim shall be 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. Also, no appropriation is made and no reimbursement is required by this act pursuant to Section 6 of Article XIII B of the California Constitution because this act mandates only costs mandated by a federal law or regulation.

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:

Congress has mandated that, as a condition for employers receiving a credit for their unemployment insurance contributions, state unemployment compensation laws must provide for the reduction of benefits by the amount of a pension that a claimant receives. Congress is now considering an amendment to that requirement that would limit the reduction to pensions funded by a claimant's base period employer and limit the amount of the reduction to the pension amount attributable to the employer's contributions.

In order to prevent completely unnecessary administrative expense, to insure that California employers will remain eligible for their tax credit, and to insure that unemployment insurance claimants are not penalized unfairly for the receipt of pension payments they have funded, it is necessary for this act to take effect immediately.

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## CHAPTER 1175

An act to amend Sections 45168 and 88167 of the Education Code, relating to classified employees.

[Approved by Governor September 27, 1980. Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. Section 45168 of the Education Code is amended to read:

45168. (a) Except as provided in subdivision (b), the governing board of each school district when drawing an order for the salary or wage payment due to a classified employee of the district may, without charge, reduce the order by the amount which it has been requested in a revocable written authorization by the employee to deduct for the payment of dues in, or for any other service provided by, any bona fide organization, of which he is a member, whose

membership consists, in whole or in part, of employees of such district, and which has as one of its objectives improvements in the terms or conditions of employment for the advancement of the welfare of such employees.

The revocable written authorization shall remain in effect until expressly revoked in writing by the employee. Whenever there is an increase in the amount required for such payment to the organization, the employee organization shall provide the employee with adequate and necessary data on such increase at a time sufficiently prior to the effective date of the increase to allow the employee an opportunity to revoke the written authorization, if desired. The employee organization shall provide the public school employer with notification of the increase at a time sufficiently prior to the effective date of the increase to allow the employer an opportunity to make the necessary changes and with a copy of the notification of the increase which has been sent to all concerned employees.

Upon receipt of a properly signed authorization for payroll deductions by a classified employee pursuant to this section, the governing board shall reduce such employee's pay warrant by the designated amount in the next pay period following the closing date for receipt of changes in pay warrants.

The governing board shall, on the same designated date of each month, draw its order upon the funds of the district in favor of the organization designated by the employee for an amount equal to the total of the respective deductions made with respect to such organization during the pay period.

The governing board shall not require the completion of a new deduction authorization when a dues increase has been effected or at any other time without the express approval of the concerned employee organization.

(b) The governing board of each school district when drawing an order for the salary or wage payment due to a classified employee of the district may, without charge, reduce the order for the payment of dues to, or for any other service provided by, the certified or recognized organization of which the classified employee is a member, or for the payment of service fees to the certified or recognized organization as required by an organizational security arrangement between the exclusive representative and a public school employer as provided under Chapter 10.7 (commencing with Section 3540) Division 4 of Title 1 of the Government Code. However, the organizational security arrangement shall provide that any employee may pay service fees directly to the certified or recognized employee organization in lieu of having such service fees deducted from the salary or wage order.

The organizational security arrangement under which the governing board of a school district deducts dues or fees pursuant to this subdivision shall provide that any employee who is a member of a bona fide religion, body, or sect which has historically held

conscientious objections to joining or financially supporting employee organizations shall not be required to join or financially support any certified or recognized employee organization. The employee may be required, however, in lieu of paying service fees, to pay sums equal to such fees to a nonreligious charitable fund exempt from taxation under Section 501(c)(3) of the Internal Revenue Code. The nonreligious charitable fund shall be chosen by the employee from a list of at least three nonreligious charitable funds designated in a collective-bargaining agreement between the public school employer and the certified or recognized employee organization, or if the collective-bargaining agreement fails to designate such charitable funds, then to any such fund chosen by the employee. Proof of such payments shall be made on a monthly basis to the public school employer as a condition of continued exemption from the requirement of financial support to the certified or recognized employee organization.

(c) This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.

SEC. 1.5. Section 45168 of the Education Code is amended to read:

45168. (a) Except as provided in subdivision (b), the governing board of each school district when drawing an order for the salary or wage payment due to a classified employee of the district may, without charge, reduce the order by the amount which it has been requested in a revocable written authorization by the employee to deduct for the payment of dues in, or for any other service provided by, any bona fide organization, of which he is a member, whose membership consists, in whole or in part, of employees of such district, and which has as one of its objectives improvements in the terms or conditions of employment for the advancement of the welfare of such employees.

The revocable written authorization shall remain in effect until expressly revoked in writing by the employee. Whenever there is an increase in the amount required for such payment to the organization, the employee organization shall provide the employee with adequate and necessary data on such increase at a time sufficiently prior to the effective date of the increase to allow the employee an opportunity to revoke the written authorization, if desired. The employee organization shall provide the public school employer with notification of the increase at a time sufficiently prior to the effective date of the increase to allow the employer an opportunity to make the necessary changes and with a copy of the notification of the increase which has been sent to all concerned employees.

Upon receipt of a properly signed authorization for payroll deductions by a classified employee pursuant to this section, the governing board shall reduce such employee's pay warrant by the designated amount in the next pay period following the closing date

for receipt of changes in pay warrants.

The governing board shall, on the same designated date of each month, draw its order upon the funds of the district in favor of the organization designated by the employee for an amount equal to the total of the respective deductions made with respect to such organization during the pay period.

The governing board shall not require the completion of a new deduction authorization when a dues increase has been effected or at any other time without the express approval of the concerned employee organization.

(b) The governing board of each school district when drawing an order for the salary or wage payment due to a classified employee of the district may, without charge, reduce the order for the payment of dues to, or for any other service provided by, the certified or recognized organization of which the classified employee is a member, or for the payment of service fees to the certified or recognized organization as required by an organizational security arrangement between the exclusive representative and a public school employer as provided under Chapter 10.7 (commencing with Section 3540) Division 4 of Title 1 of the Government Code. However, the organizational security arrangement shall provide that any employee may pay service fees directly to the certified or recognized employee organization in lieu of having such service fees deducted from the salary or wage order.

(c) This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 6 (commencing with Section 45240) of this chapter.

**SEC. 2.** Section 88167 of the Education Code is amended, to read: 88167. (a) Except as provided in subdivision (b), the governing board of each community college district when drawing an order for the salary or wage payment due to a classified employee of the district may, without charge, reduce the order by the amount which it has been requested in a revocable written authorization by the employee to deduct for the payment of dues in, or for any other service provided by, any bona fide organization, of which he is a member, whose membership consists, in whole or in part, of employees of such district, and which has as one of its objectives improvements in the terms or conditions of employment for the advancement of the welfare of such employees.

The revocable written authorization shall remain in effect until expressly revoked in writing by the employee. Whenever there is an increase in the amount required for such payment to the organization, the employee organization shall provide the employee with adequate and necessary data on such increase at a time sufficiently prior to the effective date of the increase to allow the employee an opportunity to revoke the written authorization, if desired. The employee organization shall provide the public school employer with notification of the increase at a time sufficiently prior to the effective date of the increase to allow the employer an

opportunity to make the necessary changes and with a copy of the notification of the increase which has been sent to all concerned employees.

Upon receipt of a properly signed authorization for payroll deductions by a classified employee pursuant to this section, the governing board shall reduce such employee's pay warrant by the designated amount in the next pay period following the closing date for receipt of changes in pay warrants.

The governing board shall, on the same designated date of each month, draw its order upon the funds of the district in favor of the organization designated by the employee for an amount equal to the total of the respective deductions made with respect to such organization during the pay period.

The governing board shall not require the completion of a new deduction authorization when a dues increase has been effected or at any other time without the express approval of the concerned employee organization.

(b) The governing board of each community college district when drawing an order for the salary or wage payment due to a classified employee of the district may, without charge, reduce the order for the payment of dues to, or for any other service provided by, the certified or recognized organization of which the classified employee is a member, or for the payment of service fees to the certified or recognized organization as required in an organizational security arrangement between the exclusive representative and a public school employer as provided under Chapter 10.7 (commencing with Section 3540) Division 4 of Title 1 of the Government Code. However, the organizational security arrangement shall provide that any employee may pay service fees directly to the certified or recognized employee organization in lieu of having the service fees deducted from the salary or wage order.

The organizational security arrangement under which the governing board of a community college district deducts dues or fees pursuant to this subdivision shall provide that any employee who is a member of a bona fide religion, body, or sect which has historically held conscientious objections to joining or financially supporting employee organizations shall not be required to join or financially support any certified or recognized employee organization. The employee may be required, however, in lieu of paying service fees, to pay sums equal to such fees to a nonreligious charitable fund exempt from taxation under Section 501(c)(3) of the Internal Revenue Code. The nonreligious charitable fund shall be chosen by the employee from a list of at least three nonreligious charitable funds designated in a collective-bargaining agreement between the public school employer and the certified or recognized employee organization, or if the collective-bargaining agreement fails to designate such charitable funds, then to any such fund chosen by the employee. Proof of such payments shall be made on a monthly basis to the public school employer as a condition of continued exemption

from the requirement of financial support to the certified or recognized employee organization.

(c) This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

SEC. 2.5. Section 88167 of the Education Code is amended to read:

88167. (a) Except as provided in subdivision (b), the governing board of each community college district when drawing an order for the salary or wage payment due to a classified employee of the district may, without charge, reduce the order by the amount which it has been requested in a revocable written authorization by the employee to deduct for the payment of dues in, or for any other service provided by, any bona fide organization, of which he is a member, whose membership consists, in whole or in part, of employees of such district, and which has as one of its objectives improvements in the terms or conditions of employment for the advancement of the welfare of such employees.

The revocable written authorization shall remain in effect until expressly revoked in writing by the employee. Whenever there is an increase in the amount required for such payment to the organization, the employee organization shall provide the employee with adequate and necessary data on such increase at a time sufficiently prior to the effective date of the increase to allow the employee an opportunity to revoke the written authorization, if desired. The employee organization shall provide the public school employer with notification of the increase at a time sufficiently prior to the effective date of the increase to allow the employer an opportunity to make the necessary changes and with a copy of the notification of the increase which has been sent to all concerned employees.

Upon receipt of a properly signed authorization for payroll deductions by a classified employee pursuant to this section, the governing board shall reduce such employee's pay warrant by the designated amount in the next pay period following the closing date for receipt of changes in pay warrants.

The governing board shall, on the same designated date of each month, draw its order upon the funds of the district in favor of the organization designated by the employee for an amount equal to the total of the respective deductions made with respect to such organization during the pay period.

The governing board shall not require the completion of a new deduction authorization when a dues increase has been effected or at any other time without the express approval of the concerned employee organization.

(b) The governing board of each community college district when drawing an order for the salary or wage payment due to a classified employee of the district may, without charge, reduce the order for the payment of dues to, or for any other service provided

by, the certified or recognized organization of which the classified employee is a member, or for the payment of service fees to the certified or recognized organization as required in an organizational security arrangement between the exclusive representative and a public school employer as provided under Chapter 10.7 (commencing with Section 3540) Division 4 of Title 1 of the Government Code. However, the organizational security arrangement shall provide that any employee may pay service fees directly to the certified or recognized employee organization in lieu of having the service fees deducted from the salary or wage order.

(c) This section shall apply to districts that have adopted the merit system in the same manner and effect as if it were a part of Article 3 (commencing with Section 88060) of this chapter.

SEC. 3. It is the intent of the Legislature, if this bill and Senate Bill 2030 are both chaptered and become effective January 1, 1981, that Sections 45168 and 88167 of the Education Code, as amended by Sections 1.5 and 2.5 of this act, shall become operative on January 1, 1981, and Sections 1 and 2 of this act shall not become operative.

SEC. 4. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, 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.

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## CHAPTER 1176

An act to add and repeal Chapter 3.5 (commencing with Section 1143.10) of Title 3 of Part 3 of the Code of Civil Procedure, relating to dispute resolution.

[Approved by Governor September 27, 1980 Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. Chapter 3.5 (commencing with Section 1143.10) is added to Title 3 of Part 3 of the Code of Civil Procedure, to read:

### CHAPTER 3.5. NEIGHBORHOOD DISPUTE RESOLUTION CENTERS

1143.10. The Legislature hereby finds and declares:

(a) The resolution of certain disputes can be costly and complex and in many instances is inadequate in a formal judicial proceeding.

(b) The resolution of many personal disputes can be unnecessarily costly, complex, and inadequate in a formal institutional setting where the parties involved are in adversary posture, subject to formalized procedures with the attendant constraints and restraints.

(c) To assist in the resolution of disputes in a complex society composed of citizens of different ethnic, racial, and socioeconomic characteristics, there is a compelling need to explore informal methods of dispute resolution forums as alternatives to such structured judicial settings. Neighborhood dispute resolution centers can meet the needs of their neighborhoods by providing forums in which persons may voluntarily participate in the resolution of disputes in an informal, personal atmosphere without restraint of official intimidation. A noncoercive dispute resolution forum in the neighborhood may provide a valuable prevention and early intervention problem-solving resource to the community.

(d) Neighborhood dispute resolution centers can themselves, and as guidelines to other dispute resolution centers, serve the interests of the citizenry and promote quick and voluntary resolutions of personal disputes.

1143.11. It is the intent of the Legislature that programs funded pursuant to this chapter shall:

(1) Stimulate the establishment and use of neighborhood dispute resolution centers to help meet the need for nonjudicial alternatives for the resolution of certain disputes.

(2) Encourage continuing community participation in the development, administration, and oversight of local programs designed to facilitate the informal resolution of disputes between and among members of the community.

(3) Offer structures for dispute resolution which may serve as models for resolution centers in other communities.

(4) Serve a specific community or locale and resolve disputes that arise within that community or locale through a mediator or panel of mediators composed of residents of the community.

(5) Educate the residents of the community to be served on ways of using the services of the neighborhood dispute resolution center directly and in a preventive capacity.

1143.12. In the event federal funds are made available for such purposes, the Executive Director of the Office of Criminal Justice Planning is hereby authorized to select and make grant awards of funds to one or more public or private agencies to assure continuation of dispute resolution services consistent with the foregoing sections. To the extent necessary to meet applicable federal funding requirements, such grant awards may be limited to the support of services dealing with personal disputes which are of such a nature as may reasonably be expected, if not resolved, to lead to or develop into violations of criminal law.

1143.13. The Office of Criminal Justice Planning and the California Council on Criminal Justice are encouraged to make funds available from federal money under their control to carry out the purposes of this act.

1143.14. This chapter shall remain operative only until January 1, 1982, and on such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1982, deletes or extends such

date.

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CHAPTER 1177

An act to add Section 72256 to the Education Code, relating to community colleges.

[Approved by Governor September 27, 1980 Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. Section 72256 is added to the Education Code, to read:

72256. The Board of Governors of the California Community Colleges shall publish a statewide report on part-time employment patterns and practices in each community college district to be submitted to the Legislature no later than January 1, 1982. At the least, the report shall include a comparison of full-time and part-time faculty in the areas of teaching workload, related academic activities, remuneration, types of certificates, types of classes taught, length of employment, and whether or not the faculty members are evaluated. Information on assignments performed by full-time instructors which is in addition to their full-time assignment and for which additional compensation is provided shall be included in the report.

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CHAPTER 1178

An act to amend Section 2454 of, and to add Section 2453.5 to, the Streets and Highways Code, relating to grade separation projects.

[Approved by Governor September 27, 1980 Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. Section 2453.5 is added to the Streets and Highways Code, to read:

2453.5. The department may submit its comments and recommendations to the commission on any project for which an allocation is to be made.

SEC. 2. Section 2454 of the Streets and Highways Code is amended to read:

2454. Allocations made pursuant to Section 2453 shall be made on the basis of the following:

(a) An allocation of 80 percent of the estimated cost of the project shall be made; except that whenever contributions from other

sources exceed 20 percent of the estimated cost, the allocation shall be reduced by the amount in excess of 20 percent of the estimated cost.

(b) An allocation of 50 percent of the estimated cost of the project shall be made for a proposed crossing.

(c) No allocation shall be made in excess of 50 percent of the estimated cost of the project unless the grade crossing to be eliminated has been in existence for at least 10 years prior to the date of allocation.

(d) On projects which eliminate an existing crossing, or alter or reconstruct an existing grade separation, no allocation shall be made unless the railroad agrees to contribute 10 percent of the cost of the project.

(e) Where a project does not include a grade separation, but eliminates existing grade crossing or crossings, the allocation shall not exceed the estimated allocation that would have been made for the grade separation which is no longer needed because of the elimination of the grade crossing by the project and which is indicated on the priority list to be urgently in need of grade separation.

(f) Where the project includes the separation of a highway and a railroad passenger service operated by a city or county, the operating agency shall contribute 20 percent of the cost of the project. The priority listing for such projects shall be in accordance with criteria established for such railroad passenger service by the Public Utilities Commission.

(g) Notwithstanding the provisions of subdivisions (a) to (f), inclusive, the total of such allocations for a single project shall not exceed five million dollars (\$5,000,000) without specific legislative authorization, except that the amount for a single project may be increased to either (1) an amount that includes the federal construction cost index increase each year since 1976, or (2) an amount which does not exceed one-third of the total funds appropriated for grade separation projects for the year of allocation, whichever amount is less, as determined each year by the Public Utilities Commission.

(h) Notwithstanding any of the above provisions of this section or any other provision of law, when the state or local agency uses funds derived from federal sources in financing its share of project costs, the railroad contribution, where required by federal law or regulation, shall be computed pursuant to federal law. However, the allocation made pursuant to this chapter shall be computed as though such matching contribution was derived from nonfederal sources and shall be computed as though the railroad had made its contribution pursuant to state law rather than pursuant to federal law. Where the contribution of the railroad is computed according to federal law or regulation because of the use of federal funds in the allocation for a project, the allocation shall be increased by the amount the share of the railroad is reduced below 10 percent of the

estimated cost of the project.

SEC. 3. Section 2454 of the Streets and Highways Code is amended to read:

2454. Allocations made pursuant to Section 2453 shall be made on the basis of the following:

(a) An allocation of 95 percent of the estimated cost of the project shall be made; except that whenever contributions from other sources exceed 5 percent of the estimated cost, the allocation shall be reduced by the amount in excess of 5 percent of the estimated cost.

(b) An allocation of 50 percent of the estimated cost of the project shall be made for a proposed crossing.

(c) No allocation shall be made in excess of 50 percent of the estimated cost of the project unless the grade crossing to be eliminated has been in existence for at least 10 years prior to the date of allocation.

(d) On projects which eliminate an existing crossing, or alter or reconstruct an existing grade separation, no allocation shall be made unless the railroad agrees to contribute 5 percent of the cost of the project.

(e) Where a project does not include a grade separation, but eliminates an existing grade crossing or crossings, the allocation shall not exceed the estimated allocation that would have been made for the grade separation which is no longer needed because of the elimination of the grade crossing by the project and which is indicated on the priority list to be urgently in need of grade separation.

(f) Where the project includes the separation of a highway and a railroad passenger service operated by a city or county, the operating agency shall contribute 20 percent of the cost of the project. The priority listing for such projects shall be in accordance with criteria established for such railroad passenger service by the Public Utilities Commission.

(g) Notwithstanding the provisions of subdivisions (a) to (f), inclusive, the total of such allocations for a single project shall not exceed five million dollars (\$5,000,000) without specific legislative authorization, except that the amount for a single project may be increased to either (1) an amount that includes the federal construction cost index increase each year since 1976, or (2) an amount which does not exceed one-third of the total funds appropriated for grade separation projects for the year of allocation, whichever amount is less, as determined each year by the Public Utilities Commission.

(h) Notwithstanding any of the above provisions of this section or any other provision of law, when the state or local agency uses funds derived from federal sources in financing its share of project costs, the railroad contribution, where required by federal law or regulation, shall be computed pursuant to federal law. However, the allocation made pursuant to this chapter shall be computed as though

such matching contribution was derived from nonfederal sources and shall be computed as though the railroad had made its contribution pursuant to state law rather than pursuant to federal law. Where the contribution of the railroad is computed according to federal law or regulation because of the use of federal funds in the allocation for a project, the allocation shall be increased by the amount the share of the railroad is reduced below 5 percent of the estimated cost of the project.

SEC. 4. It is the intent of the Legislature, if this bill and Senate Bill 675 are both chaptered and become effective January 1, 1981, both bills amend Section 2454 of the Streets and Highways Code, and this bill is chaptered after Senate Bill 675, that Section 2454 of the Streets and Highways Code, as amended by Section 2 of this act shall remain operative only until the operative date of Senate Bill 675, and that on the operative date of Senate Bill 675 Section 2454 of the Streets and Highways Code as amended by Section 2 of this act be further amended in the form set forth in Section 3 of this act to incorporate the changes in Section 2454 proposed by Senate Bill 675. Therefore, Section 3 of this act shall become operative only if this bill and Senate Bill 675 are both chaptered and become effective January 1, 1981, both bills amend Section 2454, and this bill is chaptered after Senate Bill 675, in which case Section 3 of this act shall become operative on the operative date of Senate Bill 675.

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## CHAPTER 1179

An act to amend Section 51225 of the Health and Safety Code, relating to housing.

[Approved by Governor September 27, 1980. Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. Section 51225 of the Health and Safety Code is amended to read:

51225. In selecting proposals for financing, the agency shall balance its activity between urban metropolitan, nonmetropolitan, and rural metropolitan areas of the state in general proportion to the needs identified in the California Statewide Housing Plan.

Insofar as feasible, the agency shall attempt to provide financing for housing specifically designed for occupancy by particular types of lower-income households in general proportion to the proportionate need identified in the California Statewide Housing Plan and shall concentrate financing of construction and rehabilitation and financing for the sale of existing housing in areas of need as identified in the California Statewide Housing Plan or pursuant to regulations adopted pursuant to subdivision (g) of

## Section 50462.

The agency may also give priority consideration to, and reserve funds for use in connection with, large urban revitalization programs.

To facilitate the implementation of that portion of the agency's mandate to serve nonmetropolitan and rural metropolitan areas of the state in general proportion to the needs identified in the statewide housing plans, the agency shall, in nonmetropolitan and rural metropolitan areas, actively and aggressively pursue the development and financing of projects in communities of various sizes in general proportion to the communities' needs. The annual reports required of the agency pursuant to Section 51005 shall specifically enumerate the agency's progress towards meeting its mandate to serve nonmetropolitan and rural metropolitan areas, and shall assess any obstacles or problems which it has encountered in meeting this mandate, and suggest legislative and administrative solutions to overcome these obstacles or problems.

In order to facilitate implementation of local housing allocation plans, the agency may contract with a local public entity to reserve a portion of available credit and subsidy assistance for that area for one year. Such contracts may be renewed annually by mutual agreement.

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**CHAPTER 1180**

An act to amend Section 13510 of the Penal Code, relating to peace officer training.

[Approved by Governor September 27, 1980 Filed with  
Secretary of State September 29, 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. (a) 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, or 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, 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.

(b) The commission shall conduct research concerning job-related educational standards and job-related selection standards, to include vision, hearing, physical ability, and emotional stability. Job-related standards which are supported by this research shall be adopted by the commission prior to January 1, 1985, and shall apply to those peace officer classes identified in subdivision (a). The commission shall consult with local entities during the conducting of related research into job-related selection standards.

(c) Nothing in this section shall prohibit a local law enforcement agency from establishing selection and training standards which exceed the minimum standards established by the commission.

SEC. 2. This act shall become operative only if Senate Bill 1428 of the 1979-80 Regular Session of the Legislature is chaptered. If Senate Bill 1428 is chaptered, this act shall become operative on the operative date of Senate Bill 1428.

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## CHAPTER 1181

An act to amend Section 43151 of, and to add Section 43156 to, the Health and Safety Code, relating to air pollution, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1980. Filed with  
Secretary of State September 29, 1980 ]

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

SECTION 1. Section 43151 of the Health and Safety Code is amended to read:

43151. (a) No person who is a resident of, or who operates an established place of business within, this state shall import, deliver, purchase, rent, lease, acquire, or receive a new motor vehicle, new motor vehicle engine, or motor vehicle with a new motor vehicle engine for use, registration, or resale in this state unless such motor vehicle engine or motor vehicle has been certified pursuant to this chapter. No person shall attempt or assist in any such action.

(b) This article shall not apply to a vehicle acquired by a resident of this state for the purpose of replacing a vehicle registered to such resident which was damaged or became inoperative beyond reasonable repair or was stolen while out of this state; provided that such replacement vehicle is acquired out of state at the time the previously owned vehicle was either damaged or became inoperative or was stolen. This article shall not apply to a vehicle

transferred by inheritance, or by a decree of divorce, dissolution, or legal separation entered by a court of competent jurisdiction, or to any vehicle sold after the effective date of the amendments to this subdivision at the 1979-80 Regular Session of the Legislature if the vehicle was registered in this state before such effective date.

(c) "Established place of business," as used in this section, means a place actually occupied either continuously or at regular periods.

SEC. 2. Section 43156 is added to the Health and Safety Code, to read:

43156. For purposes of this article, it shall be conclusively presumed that the equitable or legal title to a motor vehicle with an odometer reading of 7,500 miles or more has been transferred to an ultimate purchaser and that the equitable or legal title to a motor vehicle with an odometer reading of less than 7,500 miles has not been transferred to an ultimate purchaser.

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 clarify the law as to the definition of a new motor vehicle for purposes of air pollution control provisions to reflect the legislative intent at the earliest possible time, it is necessary that this act take effect immediately.

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## CHAPTER 1182

An act to amend Section 7267.8 of, and to repeal Section 7268 of, the Government Code, and to amend Section 50460 of the Health and Safety Code, relating to relocation assistance.

[Approved by Governor September 27, 1980. Filed with  
Secretary of State September 29, 1980 ]

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

SECTION 1. Section 7267.8 of the Government Code is amended to read:

7267.8. (a) All public entities shall adopt rules and regulations to implement payments and to administer relocation assistance under the provisions of this chapter. Such rules and regulations shall be in conformity with the guidelines adopted by the Department of Housing and Community Development pursuant to Section 50460 of the Health and Safety Code.

(b) Notwithstanding the provisions of subdivision (a), with respect to a federally funded project, a public entity shall make relocation assistance payments and provide relocation advisory assistance as required under federal law.

SEC. 2. Section 7268 of the Government Code is repealed.

SEC. 3. Section 50460 of the Health and Safety Code is amended to read:

50460. The department shall adopt guidelines relating to relocation assistance by public entities, as defined in Section 7260 of the Government Code, pursuant to the provisions of Chapter 16 (commencing with Section 7260) of Division 7 of Title 1 of the Government Code. The department may provide consulting and technical assistance to such public entities in drafting and amending rules and regulations relating to relocation assistance. The department may require such public entities to reimburse the department for such assistance as the department provides.

The department shall, at intervals of two years, review relocation plans prepared pursuant to Section 33411, and the progress in implementation of the plans.

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## CHAPTER 1183

An act to amend Section 19801 of, and to add and repeal Chapter 8.5 (commencing with Section 19810) of Part 1 of Division 10 of, the Welfare and Institutions Code, relating to independent living centers, and making an appropriation therefor.

[Approved by Governor September 27, 1980. Filed with Secretary of State September 29, 1980.]

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

SECTION 1. Section 19801 of the Welfare and Institutions Code is amended to read:

19801. An independent living center shall:

(a) Be a private, nonprofit organization controlled by a board of directors. A majority of the board shall be comprised of disabled individuals;

(b) Be staffed by persons trained to assist disabled persons in achieving social and economic independence. The staff shall include as large a proportion as is practicable of disabled individuals;

(c) Provide, but not be limited to, the following services to disabled individuals:

- (1) Peer counseling,
- (2) Advocacy,
- (3) Attendant referral,
- (4) Housing assistance and
- (5) Information and referral.

(d) Provide other services and referrals as may be deemed necessary, such as transportation, job development, equipment maintenance and evaluation, training in independent living skills, mobility assistance, and communication assistance.

SEC. 2. Chapter 8.5 (commencing with Section 19810) of Part 1

of Division 10 is added to the Welfare and Institutions Code, to read:

**CHAPTER 8.5. PILOT COMPREHENSIVE SERVICES CENTER FOR THE DISABLED**

19810. The purpose of this chapter is to study the feasibility and to plan for the establishment of pilot projects which would alter the delivery of services to the severely disabled through a system of comprehensive service centers. Pilot projects, which shall be contingent upon approval of the feasibility study conducted pursuant to this chapter, and future budget appropriations would develop, through established information gathering and evaluation systems, information about effective methods:

(a) To provide for optimum utilization of important community social, vocational, and health related resources to assist severely disabled individuals to obtain and maintain the maximum level of independent living in the mainstream of the community.

(b) To provide the most efficient and effective use of public funds in the delivery of these social, vocational, and health related services.

(c) To coordinate, integrate, and link these social, vocational, and health related services by removing obstacles which impede or limit improvements in delivery of these services.

(d) To allow the state substantial flexibility in organizing or administering the delivery of social, vocational, and health related services to its severely disabled citizens and provide for the redirection of state resources under the jurisdiction of the Health and Welfare Agency in order to provide for centralized case management responsibility with the pilot project organization for the purpose of referral, assessment and provision of services to severely disabled clients.

19811. "Agency" means the Health and Welfare Agency.

"Disabled individual" means a person with severe physical or sensory disabilities requiring independent living services in order to allow the individual to obtain or maintain employment or live independently in the family and community.

"Comprehensive services center for the disabled" means a coordinated, integrated system of delivery, or contracting, of one or more of the following social, vocational, and health related services designed for severely disabled persons: peer counseling, client advocacy, attendant care, housing assistance, information and referral, transportation, job development, equipment maintenance and evaluation, training in independent living skills, mobility assistance, vocational and other training services including personal and social adjustment for improving individual ability to live and function more independently, health maintenance activities, communications, and other such services.

"Department" means the Department of Rehabilitation.

"Independent living center" is defined pursuant to Section 19801.

19812. In addition to its other powers, the agency 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.

To the extent permitted by federal law, each department within the agency, including departments designated as single state agencies for the programs established pursuant to this chapter, shall waive regulations and general policies and make resources available which are necessary for the administration of this chapter, upon request of the agency.

The agency shall 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.

The provisions of this chapter shall be administered by the Department of Rehabilitation.

19813. The department shall, through consultation with community based independent living centers, develop administrative and program standards and regulations for the development and provision of services. The department shall also formulate criteria for pilot comprehensive service centers for the disabled. The criteria shall include, but not be limited to, the following:

(a) Development and provision of social, vocational, and health related services.

(b) Specifications for the quality of such social, vocational, and health related services.

(c) Coordination and integration of the social, vocational, and health related services described in Section 19811.

(d) Access to as many services specified in Section 19811 as possible in a center known as a comprehensive center for the disabled.

(e) Coordination with local governmental agencies concerned with comprehensive services for persons with disabilities.

(f) Coordination with other community based service providers to insure where appropriate that their services are used or contracted for rather than duplicated or replaced.

(g) Specifications for the evaluation of the proposals submitted for the pilot projects and for the evaluation of the pilot projects. The evaluation of the pilot projects shall measure the effectiveness and the efficiency of the projects. Specifically the evaluation shall include, but not be limited to:

(1) The number and description of disabled individuals by disability, who receive services from the pilot project centers;

(2) The range of problems presented by the individuals serviced, and the services provided in response to those problems;

(3) The number of individuals who moved from an institutional setting to a more independent setting by type of setting;

(4) The number of individuals who entered vocational

rehabilitation or employment;

(5) The impact of the services on medical and supportive service costs;

(6) The impact or benefits of the services on the disabled individuals participation in family and community activities;

(7) The cost and savings to the General Fund and other public funds of providing the services;

(8) The cost effectiveness of the services provided;

(9) The effectiveness of data collection and output for program evaluation purposes;

(10) Other sources of funding independent living centers; and

(11) Other information specified by the department.

The department may enter into interagency agreements with other state agencies, independent living centers and such other consultants as deemed appropriate by the Health and Welfare Agency for purposes of planning, evaluation, site selection and such other factors to assure fiscal and management accountability of the projects.

19814. The department shall do the following:

(a) Develop a plan of implementation to meet the criteria established in Section 19810. This plan shall be developed in consultation with existing independent living projects.

(b) Submit to the Governor and Legislature a feasibility report by October 1, 1981.

This report shall discuss the specific ramifications, due to the establishment of comprehensive service centers for the disabled, upon clients and current delivery systems and upon those systems' employees, with a focus upon: (1) who would be eligible, (2) how potential duplication of services could be avoided, (3) an estimate of the potential total statewide caseload in those areas of current services which would be upgraded or subject to increased utilization, (4) what additional services would be provided, and (5) specific estimates of statewide costs compared to current services. The report shall include a recommendation for or against proceeding with the pilot projects and any adjustments which should be made. If the conclusion is to proceed with the pilot projects, the report shall include a description of progress made to date including proposed evaluation criteria, estimated cost data relative to implementation of the pilot projects in July 1982, criteria and guidelines for pilot site selection, and necessary actions which should be taken between October 1, 1981 and June 30, 1982 for additional planning for pilot project implementation. This report shall be submitted in time to assist the funding process for selected pilot projects, on July 1, 1982.

(c) Submit to the Governor and Legislature a report by May 1, 1982 detailing specific progress to date regarding site selection, costs and final evaluation criteria and such other information deemed pertinent.

(d) Contingent upon approval of the feasibility report, future budget appropriations, and upon certification of the agency

secretary, enter into agreements and negotiated contracts with independent living centers to operate up to five selected pilot projects consistent with the criteria adopted pursuant to Section 19811. Such program grant awards would be for a period not to exceed three years with annual determination for continuation.

(e) Provide for administrative and technical consultation to the pilot projects throughout the project period to assure conformance to project criteria.

(f) Cause the pilot projects to be evaluated in accordance with the established criteria.

(g) Seek and utilize any available federal, state, or private funds which may be available for carrying out the purposes of this chapter.

(h) Exempt participants engaged in special education programs under the authority of superintendent of special education or local school districts, mentally retarded persons receiving services from regional centers under contract with the Department of Developmental Services and disabled persons who are residents of California's state hospital system, except in those cases where parties may choose to enter into agreements with the department subject to approval by the secretary of the agency, from participation in this program.

(i) Assist pilot projects to coordinate with other state and local governmental and nongovernmental programs and services for disabled persons.

(j) Implement community development and planning functions necessary to carry out the provisions of this chapter.

(k) Cause the pilot projects funded by this chapter to be evaluated by an independent public or private agency for the three years of the project period.

(l) Submit to the Legislature and the Governor by May 1, 1982 a followup report on the administration of the chapter, at which time a determination will be made as to the continuance of the program. If approved for continuation, subsequent reports shall be submitted annually by May 1 of each year. Such reports shall include a description and evaluation of the pilot projects, characteristics of the persons serviced, the information required for evaluations under subdivision (f) of Section 19813, and recommendations for administrative and legislative changes.

19815. If the department's initial report recommends proceeding with the pilot projects, evaluation criteria, set forth in the report submitted by the department pursuant to subdivision (b) of Section 19814 shall be reviewed by the Governor's Office of Planning and Research, the Senate Subcommittee on the Disabled, and the Assembly Subcommittee on Mental Health and Developmental Disabilities, and the appropriate standing policy committees in each house, or their designees prior to submission of request for proposals to establish pilot projects by the department.

19816. The Director of Finance may authorize allocations of funds appropriated to the Department of Finance pursuant to this

act not 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 not sooner than such lesser time as the chairman of the committee, or his or her designee, may in each instance determine. This chapter shall remain in effect only until June 30, 1985 and on such date is repealed, unless a later enacted statute, which is chaptered before June 30, 1985 deletes or extends such date. In this regard, it is the intent of the Legislature to evaluate the report submitted by May 1, 1984 pursuant to subdivision (b) of Section 19814 to determine whether pilot projects conducted under this chapter have had sufficient positive impact to warrant their continuation.

SEC. 3. There is hereby appropriated from funds appropriated to the contingency reserve for economic uncertainties in the General Fund to the Department of Rehabilitation, the following sums for the following fiscal years for the purpose of planning for the development of comprehensive services centers pilot projects established pursuant to this act:

- (1) To the Department of Rehabilitation for fiscal year 1980-81 ..... \$129,500
  - (2) To the Department of Rehabilitation for fiscal year 1981-82 ..... 64,800
  - (3) To the Department of Finance for allocation to the Department of Rehabilitation for fiscal year 1981-82 ..... 505,700
- upon submittal and approval of the feasibility report required by this act.

CHAPTER 1184

An act to amend Section 50406 of the Health and Safety Code, relating to public property.

[Approved by Governor September 27, 1980 Filed with Secretary of State September 29, 1980.]

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

SECTION 1. Section 50406 of the Health and Safety Code is amended to read:

50406. For the purposes of this division, the department shall have all of the following powers:

- (a) To sue and be sued in its own name.
- (b) To have an official seal and to alter it at pleasure.
- (c) To make and execute contracts and all other instruments

necessary or convenient for the exercise of its powers and functions.

(d) To employ architects, planners, engineers, attorneys, accountants, experts in housing construction, management and finance, and such other advisers, consultants, and agents as may be necessary in its judgment for the performance of its functions and to fix their compensation in accordance with applicable law.

(e) To provide advice, technical information, and consultative and technical services as provided in this division.

(f) To establish, revise from time to time, and charge and collect fees and charges for services provided pursuant to this division.

(g) To accept gifts or grants or loans of funds or property or financial or other aid from any federal or state agency or private source and to comply with conditions thereof not contrary to law.

(h) To enter into agreements or other transactions with any governmental agency, including an agreement for administration of a housing or community development program of the governmental agency by the department, or for administration by another governmental agency of a program of the department, either in whole or in part.

(i) To enter such agreements and perform such acts as are necessary to obtain subsidies for use in connection with the exercise of powers and functions of the department, and to transfer such subsidies to others as required by any such agreement.

(j) To appear in its own behalf before boards, commissions, departments, or other agencies of local, state, or federal government.

(k) To establish such regional offices as deemed necessary to effectuate the department's purposes and functions.

(l) To acquire real or personal property, or any interest therein, on either a temporary or long-term basis, in its own name by gift, purchase, transfer, foreclosure, lease, option, or otherwise, including easements or other incorporeal rights in property.

(m) To provide bilingual staff in connection with services of the department and make available departmental publications in a language, other than English, where necessary to effectively serve groups for which such services or publications are made available.

(n) To do any and all things necessary to carry out its purposes and exercise the powers expressly granted by this division.

(o) To sell real property acquired by the department in a foreclosure, by deed in lieu of foreclosure, or sale under a power of sale on a deed of trust, lien, or by exercise of any other security interest on real property securing repayment of a loan or performance under a grant or loan made by the department. Real property so acquired shall be sold for market value and sale proceeds shall be placed in the fund from which the secured loan or grant was made. The department may establish terms, conditions, and restrictions for such sale, including a requirement that the real property be used for housing for persons and families of low or moderate income, and any such terms, conditions and restrictions shall be set forth in the deed or other instrument of conveyance. Such

sales shall be conducted by the Department of General Services. Sales made pursuant to this section shall not be subject to the requirements of Sections 11011 and 11011.1 of the Government Code. Failure to comply with the provisions of this subdivision shall not invalidate any right, title, or interest acquired by a bona fide purchaser or encumbrancer for value.

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## CHAPTER 1185

An act to amend Sections 23918 and 23919 of the Education Code, relating to the State Teachers' Retirement System.

[Approved by Governor September 27, 1980 Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. Section 23918 of the Education Code is amended to read:

23918. Any retirant whose last employment was in the California State University and Colleges, as a member of this system or the Public Employees' Retirement System, may serve as a member of the teaching staff of the California State University and Colleges and shall be subject to the employment limitations as provided by the Public Employees' Retirement Law (Part 3 (commencing with Section 2000), Division 5, Title 2 of the Government Code).

SEC. 2. Section 23919 of the Education Code is amended to read:

23919. Any retirant may be employed by a school district or other employing agency, except as provided in Sections 45134 and 88033, and earn not more than five thousand dollars (\$5,000), in any one school year and the rate of pay for such employment shall not be less than the minimum, nor exceed that paid by the employer to other employees performing comparable duties. The employment shall not operate to reinstate the retirant as a member of this system, or to terminate or suspend his or her retirement allowance, and no deduction shall be made from his or her salary as contributions to this system.

The maximum amount earnable under this section shall be adjusted by the board on July 1, 1981, and July 1, 1982, by 50 percent of the annual amount of increase in All Urban California Consumer Price Index using December 1980 as the base.

## CHAPTER 1186

An act to amend Section 44944 of the Education Code, relating to certificated employees.

[Approved by Governor September 27, 1980. Filed with Secretary of State September 29, 1980.]

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

SECTION 1. Section 44944 of the Education Code is amended to read:

44944. (a) In the event a hearing is requested by the employee, the hearing shall be commenced within 60 days from the date of the employee's demand for a hearing. The hearing shall be initiated, conducted, and a decision made in accordance with Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code; provided, however, that the hearing date shall be established after consultation with the employee and the governing board, or their representatives, and the Commission on Professional Competence shall have all the power granted to an agency therein, except that the right of discovery of the parties shall not be limited to those matters set forth in Section 11507.6 of the Government Code but shall include the rights and duties of any party in a civil action brought in a superior court. In all cases, discovery shall be completed prior to seven calendar days before the date upon which the hearing commences. If any continuance is granted pursuant to Section 11524 of the Government Code, the time limitation for commencement of the hearing as provided in this subdivision shall be extended for a period of time equal to such continuance; provided, however, that such extension shall not include that period of time attributable to an unlawful refusal by either party to allow the discovery provided for in this section.

If the right of discovery granted under the preceding paragraph is denied by either the employee or the governing board, all the remedies in Section 2034 of the Code of Civil Procedure shall be available to the party seeking discovery and the court of proper jurisdiction, to entertain his motion, shall be the superior court of the county in which the hearing will be held.

The time periods in this section and of Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code and of Article 3 (commencing with Section 2016) of Chapter 3 of Title 3 of Part 4 of the Code of Civil Procedure shall not be applied so as to deny discovery in a hearing conducted pursuant to this section.

The superior court of the county in which the hearing will be held may, upon motion of the party seeking discovery, suspend the hearing so as to comply with the requirement of the preceding paragraph.

No witness shall be permitted to testify at the hearing except upon oath or affirmation. No testimony shall be given or evidence introduced relating to matters which occurred more than four years prior to the date of the filing of the notice. Evidence of records regularly kept by the governing board concerning the employee may be introduced, but no decision relating to the dismissal or suspension of any employee shall be made based on charges or evidence of any nature relating to matters occurring more than four years prior to the filing of the notice.

(b) The hearing provided for in this section shall be conducted by a Commission on Professional Competence. One member of the commission shall be selected by the employee, one member shall be selected by the governing board, and one member shall be a hearing officer of the Office of Administrative Hearings who shall be chairman and a voting member of the commission and shall be responsible for assuring that the legal rights of the parties are protected at the hearing. If either the governing board or the employee for any reason fails to select a commission member at least seven calendar days prior to the date of the hearing, such failure shall constitute a waiver of the right to selection, and the county board of education or its specific designee shall immediately make the selection. When the county board of education is also the governing board of the school district or has by statute been granted the powers of a governing board, the selection shall be made by the Superintendent of Public Instruction, who shall be reimbursed by the school district for all costs incident to the selection.

The member selected by the governing board and the member selected by the employee shall not be related to the employee and shall not be employees of the district initiating the dismissal and shall hold a currently valid credential and have at least five years' experience within the past 10 years in the discipline of the employee.

(c) The decision of the Commission on Professional Competence shall be made by a majority vote and the commission shall prepare a written decision containing findings of fact, determinations of issues and a disposition which shall be, solely, either:

- (1) That the employee should be dismissed.
- (2) That the employee should not be dismissed.

The commission shall not have the power to dispose of the charge of dismissal by imposing probation, suspension of a dismissal or a nondismissal, or other alternative sanctions.

The decision of the Commission on Professional Competence shall be deemed to be the final decision of the governing board.

The board may adopt from time to time such rules and procedures not inconsistent with provisions of this section, as may be necessary to effectuate this section.

The governing board and the employee shall have the right to be represented by counsel.

(d) (1) If the member selected by the governing board or the member selected by the employee is employed by any school district

in California, such member shall, during any service on a Commission on Professional Competence, continue to receive salary, fringe benefits, accumulated sick leave, and other leaves and benefits from the district in which the member is employed, but shall receive no additional compensation or honorariums for service on the commission.

(2) If service on a Commission on Professional Competence occurs during summer recess or vacation periods, the member shall receive compensation proportionate to that received during the current or immediately preceding contract period from the member's employing district, whichever amount is greater.

(e) If the Commission on Professional Competence determines that the employee should be dismissed, the governing board and the employee shall share equally the expenses of the hearing, including the cost of the hearing officer; and the state shall pay, any costs incurred under paragraph (2) of subdivision (d), the reasonable expenses, as determined by the hearing officer, of the member selected by the governing board and the member selected by the employee, including, but not limited to payments or obligations incurred for travel, meals, and lodging, and the cost of the substitute or substitutes, if any, for the member selected by the governing board and the member selected by the employee. The State Controller shall pay all claims submitted pursuant to this paragraph from the General Fund, and may prescribe reasonable rules, regulations, and forms for the submission of such claims. The employee and the governing board shall pay their own attorney fees.

If the Commission on Professional Competence determines that the employee should not be dismissed, the governing board shall pay the expenses of the hearing, including the cost of the hearing officer, any costs incurred under paragraph (2) of subdivision (d), the reasonable expenses, as determined by the hearing officer, of the member selected by the governing board and the member selected by the employee, including, but not limited to payments or obligations incurred for travel, meals, and lodging, the cost of the substitute or substitutes, if any, for the member selected by the governing board and the member selected by the employee, and reasonable attorney fees incurred by the employee.

As used in this section, "reasonable expenses" shall not be deemed "compensation" within the meaning of subdivision (d).

If either the governing board or the employee petitions a court of competent jurisdiction for review of the decision of the commission, the payment of expenses to members of the commission required by this subdivision shall not be stayed.

In the event that the decision of the commission is finally reversed or vacated by a court of competent jurisdiction, then either the state, having paid the commission members' expenses, shall be entitled to reimbursement from the governing board for such expenses, or the governing board, having paid such expenses, shall be entitled to reimbursement from the state.

Additionally, either the employee, having paid a portion of the expenses of the hearing, including the cost of the hearing officer, shall be entitled to reimbursement from the governing board for such expenses, or the governing board, having paid its portion and the employee's portion of the expenses of the hearing, including the cost of the hearing officer, shall be entitled to reimbursement from the employee for that portion of such expenses.

(f) The hearing provided for in this section shall be conducted in a place selected by agreement among the members of the commission. In the absence of such agreement the place shall be selected by the hearing officer.

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.

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## CHAPTER 1187

An act to add Section 19774.5 to the Government Code, relating to civil service employees.

[Approved by Governor September 27, 1980. Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. Section 19774.5 is added to the Government Code, to read:

19774.5. This section applies only to the Department of Corrections and the Department of the Youth Authority.

Employee members of reserve military units and the National Guard required to attend scheduled reserve drill periods may use their own free time, overtime, or vacation time, or, if requested by the employee at least 20 days prior to the commencement of the requested leave of absence, shall be granted temporary leaves of absence by the appointing power covering periods of ordered duty and including time involved in going to and returning from such duty. The appointing power may, in the event of a public agency emergency, cancel any leave of absence granted pursuant to this section. If an appointing power does not grant a leave of absence pursuant to this section, the reserve units and the National Guard are urged to not consider the employee absent without leave. An employee who is granted a leave of absence pursuant to the terms of this section shall, upon such employee's release from scheduled reserve drill periods or upon such employee's discharge from

hospitalization incident to such drill periods, be reinstated to his former position.

An employee granted a leave of absence pursuant to this section shall not receive any state salary or compensation for any leave of absence for weekend drill.

An employee granted a leave of absence pursuant to the terms of this section shall report for work at the beginning of the next regularly scheduled working day after expiration of the last calendar day necessary to travel from the place of training to the place of employment following such employee's release, or within a reasonable time thereafter if delayed return is due to factors beyond the employee's control.

If an employee covered by this section is hospitalized incident to his scheduled drill periods, he shall be required to report for work at the beginning of the next regularly scheduled workday after expiration of the time necessary to travel from the place of discharge from hospitalization to the place of employment, or within a reasonable time thereafter if delayed return is due to factors beyond the employee's control, including, but not limited to, disabilities incurred while engaged in military service, or within one year after his release from military reserve obligations, whichever is earlier.

At the termination of the leave of absence the appointing power shall return the employee to his former position. If the employee is unable to perform the duties of his former position, the appointing power may grant a leave of absence or take any of the actions provided by Section 19253.5.

All rights granted under this section are in addition to, and not restrictive of, any rights heretofore or hereafter acquired by public employees pursuant to Chapter 4 (commencing with Section 6200) of Division 4.7 of the Labor Code.

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## CHAPTER 1188

An act to add Section 4352 to the Civil Code, and to add Section 80 to the Probate Code, relating to wills.

[Approved by Governor September 27, 1980. Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. Section 4352 is added to the Civil Code, to read:  
4352. Every final judgment declaring a marriage a nullity or dissolving a marriage shall contain the following notice:

Notice: Please review your will. Unless a provision is made in the property settlement agreement, this court proceeding does not affect your will and the ability of your former spouse to take under it.

SEC. 2. Section 80 is added to the Probate Code, to read:

80. (a) If after executing a will or any codicil thereto, the testator's marriage is dissolved or declared a nullity by a final judgment of a court of competent jurisdiction, and if the testator and his or her former spouse have executed a property settlement agreement waiving and renouncing all rights to inherit the estate of the other at the other's death, or to receive any property of the other under a will executed prior to the agreement, the former spouse of the testator and the lineal descendants of the former spouse of the testator shall be deemed to have predeceased the testator for purposes of the will or codicil, unless the will or codicil expressly provides otherwise. For the purpose of this section, "lineal descendants" shall include all lineal descendants of the former spouse of the testator who are not also lineal descendants of the testator.

(b) The provisions of subdivision (a) shall not be applicable if the testator's death occurs during the remarriage to the former spouse.

(c) The provisions of this section shall be applicable only to wills or codicils executed on or after January 1, 1981.

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## CHAPTER 1189

An act to amend Section 11580.9 of the Insurance Code, relating to insurance.

[Approved by Governor September 27, 1980. Filed with  
Secretary of State September 29, 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 at least equal 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 at least equal 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 loss to which primary insurance is not valid and collectible in whole or in part, such excess policy shall apply only to the extent necessary to provide the insured with coverage limits at least equal to the 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.

(g) For purposes of this section, a certificate of self-insurance issued pursuant to Section 16053 of the Vehicle Code or a report filed pursuant to Section 16051 of the Vehicle Code shall be considered a policy of automobile liability insurance.

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## CHAPTER 1190

An act to amend Sections 7500, 7504, 7514, 7521, 7522, 7538, 7580, and 7581 of, and to repeal Sections 7526.2 and 7538.3 of, the Business and Professions Code, and to add Division 5 (commencing with Section 14000) to the Insurance Code, relating to insurance adjusters, and making an appropriation therefor.

[Approved by Governor September 27, 1980. Filed with  
Secretary of State September 29, 1980 ]

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

**SECTION 1.** Section 7500 of the Business and Professions Code is amended to read:

7500. This chapter may be cited as the Private Investigator Act.

**SEC. 2.** Section 7504 of the Business and Professions Code is amended to read:

7504. As used in this chapter, "licensee" means a person licensed under this chapter and includes, but is not limited to, private investigator, private patrol operator, reposessor, alarm company operator, and armored contract carrier.

**SEC. 3.** Section 7514 of the Business and Professions Code is amended to read:

7514. The director may adopt and enforce reasonable rules:

(a) Classifying licensees according to the type of business regulated by this chapter in which they are engaged, including but not limited to private investigators, persons employed by any lawful business as security guards or patrolpersons, reposessors, alarm company operators, and armored contract carriers and limiting the field and scope of the operations of a licensee to those in which he is classified and qualified to engage.

(b) Fixing the qualifications of licensees and managers, in addition to those prescribed in this chapter, necessary to promote and protect the public welfare.

(c) Carrying out generally the provisions of this chapter, including regulation of the conduct of licensees.

(d) For a change in the classification of a licensee, or in the type of business organization upon application therefor by a licensee, and to prescribe the fee, if any, to be paid.

(e) Establishing the qualifications which any person employed by a private patrol operator or any lawful business as a security guard or patrolperson, or (subject to the provisions of subdivision (a) of Section 7514.1) employed by an armored contract carrier, or employed by an alarm company operator as an alarm agent must meet as a condition of becoming eligible to carry firearms pursuant to subdivision (d) of Section 12031 of the Penal Code and Section 7514.1.

(f) Requiring each uniformed employee of a private patrol operator and each armored vehicle guard, as defined in this chapter, and any other person employed and compensated by a private patrol operator or any lawful business as a security guard or patrolperson and who in the course of such employment carries a deadly weapon to be registered with the bureau upon application on a form prescribed by the director accompanied by the registration fee and by two classifiable sets of fingerprints of the applicant or its equivalent as determined by the director and approved by the Department of Justice; establishing the term of the registration for a period of not less than two nor more than four years; and providing for the renewal thereof upon proper application and payment of the renewal fee. The director may, after opportunity for hearing, refuse such registration to any person who lacks good moral character, and may impose such reasonable additional requirements as are necessary to meet local needs and are not inconsistent with the provisions of this chapter.

(g) Requiring each alarm agent of an alarm company operator, as defined in this chapter, to be registered with the bureau upon application on a form prescribed by the director accompanied by the registration fee and by two classifiable sets of fingerprints of the applicant or its equivalent as determined by the director and approved by the Department of Justice; establishing the term of the registration for a period of not less than two nor more than four years; and providing for the renewal thereof upon proper application and payment of the renewal fee. The director may, after opportunity for hearing, refuse such registration to any person who lacks good moral character, and may impose such reasonable additional requirements as are necessary to meet local needs and are not inconsistent with the provisions of this chapter.

(h) Establishing procedures whereby the local authorities of any city, county, or city and county may file charges with the director alleging that any registered security guard or patrolperson, or anyone who is an applicant for registration, with the bureau fails to meet standards for registration, and providing further for the investigation of such charges.

(i) Requiring private patrol operators and any lawful business to maintain detailed records identifying all firearms in their possession

or under their control, and the employees or persons authorized to carry or have access to such firearms.

(j) Establishing the qualifications which a uniformed employee of a licensee who operates a private patrol must meet as a condition of handling guard dogs.

SEC. 4. Section 7521 of the Business and Professions Code is amended to read:

7521. (a) A private investigator within the meaning of this chapter is a person, other than an insurance adjuster subject to the provisions of Chapter 1 (commencing with Section 14000) of Division 5 of the Insurance Code, who, for any consideration whatsoever engages in business or accepts employment to furnish, or agrees to make, or makes, any investigation for the purpose of obtaining, information with reference to:

Crime or wrongs done or threatened against the United States of America or any state or territory of the United States of America; the identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of any person; the location, disposition, or recovery of lost or stolen property; the cause or responsibility for fires, libels, losses, accidents, or damage or injury to persons or to property; or securing evidence to be used before any court, board, officer, or investigating committee. For the purposes of this subdivision, a private investigator is any person, firm, company, association, partnership or corporation acting for the purpose of investigating, obtaining, and reporting to any private employer, its agent, supervisor, or manager, information concerning such employer's employees involving questions of integrity, honesty, breach of rules or other standards of performance of job duties.

This subdivision shall not apply to either of the following:

(1) A public utility regulated by the State Public Utilities Commission, or its employees.

(2) A theater exhibition business or its employees.

(b) A private patrol operator, or operator of a private patrol service, within the meaning of this chapter is a person, other than an armored contract carrier, who, for any consideration whatsoever:

Agrees to furnish, or furnishes, a watchman, guard, patrolman, or other person to protect persons or property or to prevent the theft, unlawful taking, loss, embezzlement, misappropriation, or concealment of any goods, wares, merchandise, money, bonds, stocks, notes, documents, papers, or property of any kind; or performs the service of such watchman, guard, patrolman, or other person, for any of said purposes.

(c) A person licensed as a private patrol operator only may not make any investigation or investigations except those that are incidental to the theft, loss, embezzlement, misappropriation, or concealment of any property, or any other thing enumerated in this section, which he has been hired or engaged to protect, guard, or

watch.

(d) A reposessor within the meaning of this chapter is a person who, for any consideration whatsoever, engages in business or accepts employment to locate or recover personal property, including, but not limited to, personal property registered under the provisions of the Vehicle Code, which has been sold under a conditional sales agreement or which is subject to a chattel mortgage. A licensee under this chapter shall not engage in business or accept employment to collect claims owed or due or asserted to be owed or due to another unless the licensee has complied with the provisions of Chapter 8 (commencing with Section 6850) of Division 3 in addition to complying with the provisions of this chapter, except that a reposessor licensed under this chapter may make a written demand for payment in lieu of repossession if the demand is made pursuant to an assignment for repossession and if under the terms of the assignment the fee or remuneration due to the reposessor is not based on a percentage of the amount collected.

(e) An alarm company operator within the meaning of this chapter shall mean and include any business operated for any consideration whatsoever, engaged in the installation, maintenance, alteration, or servicing of alarm systems or which responds to such alarm systems. "Alarm company operator," however, shall not include a business which merely sells from a fixed location or manufacture alarm systems unless such business services, installs, monitors or responds to alarm systems at the protected premises.

(f) An alarm agent within the meaning of this chapter is a person employed by an alarm company operator whose duties include altering, installing, maintaining, moving, repairing, replacing, or servicing an alarm system. The term "alarm system" shall mean any assembly of equipment and devices arranged to signal the presence of a hazard requiring urgent attention and to which police are expected to respond.

(g) An armored contract carrier within the meaning of this chapter is a contract carrier operating armored vehicles pursuant to California Highway Patrol and Public Utilities Commission authority.

(h) An armored vehicle guard within the meaning of this chapter is any person employed by an armored contract carrier who in the course of such employment carries a deadly weapon.

SEC. 5. Section 7522 of the Business and Professions Code is amended to read:

7522. This chapter does not apply to:

(a) A person employed exclusively and regularly by one employer in connection with the affairs of such employer only and where there exists an employer-employee relationship, provided that such person at no time carries or uses any deadly weapon in the performance of his or her duties. For purposes of this subdivision, "deadly weapon" is defined to include any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sandbag,

metal knuckles, any dirk, dagger, pistol, revolver, or any other firearm, any knife having a blade longer than five inches, any razor with an unguarded blade and any metal pipe or bar used or intended to be used as a club.

(b) An officer or employee of the United States of America, or of this state or a political subdivision thereof, while such officer or employee is engaged in the performance of his official duties, including uniformed peace officers employed part time by a public agency pursuant to a written agreement between a chief of police or sheriff and the public agency, provided such part-time employment does not exceed 50 hours in any calendar month.

(c) A person engaged exclusively in the business of obtaining and furnishing information as to the financial rating of persons.

(d) A charitable philanthropic society or association duly incorporated under the laws of this state which is organized and maintained for the public good and not for private profit.

(e) Patrol special police officers appointed by the police commission of any city, county, or city and county under the express terms of its charter who also under the express terms of the charter (1) are subject to suspension or dismissal after a hearing on charges duly filed with the commission after a fair and impartial trial, (2) must be not less than 18 years of age nor more than 40 years of age, (3) must possess physical qualifications prescribed by the commission, and (4) are designated by the police commission as the owners of a certain beat or territory as may be fixed from time to time by the police commission.

(f) An attorney at law in performing his duties as such attorney at law.

(g) A licensed collection agency or an employee thereof while acting within the scope of his employment, while making an investigation incidental to the business of the agency, including an investigation of the location of a debtor or his property where the contract with an assignor creditor is for the collection of claims owed or due or asserted to be owed or due or the equivalent thereof.

(h) Admitted insurers and agents and insurance brokers licensed by the state, performing duties in connection with insurance transacted by them.

(i) The legal owner of personal property which has been sold under a conditional sales agreement or a mortgagee under the terms of a chattel mortgage.

(j) Any bank subject to the jurisdiction of the Superintendent of Banks of the State of California or the Comptroller of Currency of the United States.

(k) A person engaged solely in the business of securing information about persons or property from public records.

(l) A peace officer of this state or a political subdivision thereof while such peace officer is employed by a private employer to engage in off-duty employment in accordance with the provisions of Section 1126 of the Government Code.

(m) An insurance adjuster subject to the provisions of Chapter 1 (commencing with Section 14000) of Division 5 of the Insurance Code.

(n) A peace officer who has retired from any agency described in Section 830.1 of the Penal Code or subdivision (a) of Section 830.2 of the Penal Code, when such retired peace officer is employed by a private employer in employment approved by the chief law enforcement officer of the jurisdiction where the employment takes place, provided that the retired officer is under 65 years of age, is in a uniform of a public law enforcement agency, has registered with the bureau on a form approved by the director, and has met any training requirements or their equivalent as established for security personnel under Section 7514.1 or 7514.2. Such officer may not carry a loaded or concealed firearm unless he or she is exempted under the provisions of subdivision (a) of Section 12027 of the Penal Code or paragraph (1) of subdivision (b) of Section 12031 of the Penal Code or has met the requirements set forth in Section 12033 of the Penal Code.

SEC. 6. Section 7526.2 of the Business and Professions Code is repealed.

SEC. 7. Section 7538 of the Business and Professions Code is amended to read:

7538. (a) Any licensee or officer, director, partner, or manager of a licensee may divulge to any law enforcement officer or district attorney, or his representative, any information he may acquire as to any criminal offense, but he shall not divulge to any other person, except as he may be required by law so to do, any information acquired by him except at the direction of the employer or client for whom the information was obtained.

(b) No licensee or officer, director, partner, manager, or employee of a licensee shall knowingly make any false report to his employer or client for whom information was being obtained.

(c) No written report shall be submitted to a client except by the licensee, qualifying manager, or a person authorized by one or either of them, and such person submitting the report shall exercise diligence in ascertaining whether or not the facts and information in such a report are true and correct.

(d) No licensee, or officer, director, partner, manager, or employee of private investigator and reposessor licensees, shall use a badge in connection with the official activities of the licensee's business.

(e) No licensee, or officer, director, partner, manager, or employee of a licensee, shall use a title, or wear a uniform, or use an insignia, or use an identification card, or make any statement with the intent to give an impression that he is connected in any way with the federal government, a state government, or any political subdivision of a state government.

(f) No licensee, or officer, director, partner, manager, or employee of a reposessor licensee, shall use an alias in connection

with the official activities of the licensee's business.

(g) No licensee, or officer, director, partner, manager, or employee of a licensee, shall enter any private building or portion thereof without the consent of the owner or of the person in legal possession thereof.

(h) No private patrol licensee, or officer, director, partner, manager, or employee of a private patrol licensee shall use a badge, except while engaged in guard or patrol work and while wearing a uniform.

(i) No licensee shall appear as an assignee party in any proceeding involving claim and delivery, replevin, or other possessory action, action to foreclose a chattel mortgage, mechanic's lien, materialman's lien, or any other lien.

(j) No licensee shall permit an employee or agent in his own name to advertise, engage clients, furnish reports or present bills to clients, or in any manner whatever conduct business for which a license is required under this chapter. All business of the licensee shall be conducted in the name of and under the control of the licensee.

(k) No licensee, officer, director, partner, manager, or employee of a private investigator shall knowingly and directly solicit employment from any injured person or from any other person to obtain authorization on behalf of the injured person, as an investigator to investigate the accident or act which resulted in injury or death to such person or damage to the property of such person. Nothing in this subdivision shall prohibit the soliciting of employment from such injured person's attorney. This subdivision shall not apply to any business agent or attorney employed by a labor organization.

(l) No licensee, officer, director, partner, or manager of a private investigator shall pay or compensate any of its employees or agents on the basis of a bonus, bounty, or quota system whereby a premium is placed on the number of employer or client rule violations or infractions purportedly discovered as a result of any investigation made by a licensee.

SEC. 8. Section 7538.3 of the Business and Professions Code is repealed.

SEC. 9. Section 7580 of the Business and Professions Code is amended to read:

7580. The amount of fees prescribed by this chapter, unless otherwise fixed, is that fixed in the following schedule:

(a) The application fee for an original license in any classification is twenty-five dollars (\$25).

(b) The application fee for an original branch office certificate is fifteen dollars (\$15).

(c) The fee for an original license is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the license is issued, except that, if the license will expire less than one year after its issuance, then the fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal

date before the date on which the license is issued. The director may, by appropriate regulation, provide for the waiver or refund of the initial license fee where the license is issued less than 45 days before the date on which it will expire.

(d) The renewal fee shall be fixed by the director as follows:

(1) For a license as a reposessor, private investigator, or alarm company operator, not more than one hundred dollars (\$100).

(2) For a license as a private patrol operator, not more than two hundred dollars (\$200).

(3) For a branch office certificate, not more than twenty dollars (\$20).

(4) For a license as a private investigator and private patrol operator, not more than two hundred fifty dollars (\$250).

(e) The application and license fee for classifications prescribed by the director, in addition to those provided for in this chapter, and the application and license fees for a change in the type of business organization of a licensee, shall be in the amount prescribed by rule and regulation of the director.

(f) The delinquency fee shall be 50 percent of the renewal fee in effect on the date of expiration, but not more than twenty-five dollars (\$25).

(g) The fee for reexamination of an applicant or his manager is ten dollars (\$10).

(h) Fees to carry out the provisions of subdivisions (f) and (g) of Section 7514 shall be fixed by the director as follows:

(1) A registration fee of not more than twelve dollars (\$12).

(2) A registration renewal fee of not more than ten dollars (\$10).

(3) The firearms qualification fee of not more than ten dollars (\$10).

(4) A firearms requalification fee of not more than ten dollars (\$10).

(i) A reinstatement fee is equal to the amount of the renewal fee plus the regular delinquency fee.

SEC. 10. Section 7581 of the Business and Professions Code is amended to read:

7581. The Department of Consumer Affairs shall receive and account for all money derived from the operation of this chapter and, at the end of each month, shall report such money to the State Controller and shall pay it to the State Treasurer, who shall keep the money in a separate fund known as the Private Investigator Fund. All money in the Private Investigator Fund shall be expended in accordance with law by the bureau for the purpose of carrying out the provisions of this chapter.

SEC. 11. Division 5 (commencing with Section 14000) is added to the Insurance Code, to read:

## DIVISION 5. INSURANCE ADJUSTERS

## CHAPTER 1. INSURANCE ADJUSTER ACT

## Article 1. General Provisions

14000. This chapter may be cited as the Insurance Adjuster Act.

14001. As used in this chapter:

(a) "Commissioner" means the Insurance Commissioner.

(b) "Department" means the Department of Insurance.

(c) "Licensee" means a person licensed under this chapter.

(d) "Manager" means the individual under whose direction, control, charge, or management the business of a licensee is operated.

(e) "Person" includes any individual, firm, company, association, organization, partnership, and corporation.

14002. Nothing in this chapter shall be construed as entitling any person to practice law in this state, unless he is an active member of the State Bar of California.

## Article 2. Administration

14010. The department succeeds to and is vested with all the duties, powers, purposes, responsibilities, and jurisdiction previously vested in the Bureau of Collection and Investigative Services with respect to the licensing of insurance adjusters.

Any reference to prior licensing shall be deemed to licensing under the Private Investigator and Adjuster Act.

The commissioner shall administer and enforce the provisions of this chapter.

14011. The commissioner may, in accordance with the State Civil Service Act, appoint such inspectors, investigators, and other personnel as may be necessary for the administration and enforcement of this chapter.

14012. Every power and duty granted to or imposed upon the commissioner may be exercised by any other officer or employee of the department authorized by the commissioner, but the commissioner shall have the supervision of and the responsibility for all powers and duties exercised by such officers and employees.

14013. The commissioner may adopt and enforce reasonable rules:

(a) Fixing the qualifications of licensees and managers, in addition to those prescribed in this chapter, necessary to promote and protect the public welfare.

(b) Carrying out generally the provisions of this chapter, including regulation of the conduct of licensees.

(c) For a change in the classification of a licensee, or in the type of business organization upon application therefor by a licensee, and to prescribe the fee, if any, to be paid.

### Article 3. Regulation, Licensing, and Registration

14020. No person shall engage in a business regulated by this chapter, or act or assume to act as, or represent himself or herself to be, a licensee unless he or she is licensed under this chapter.

No person shall falsely represent that he or she is employed by a licensee.

14021. An insurance adjuster within the meaning of this chapter is a person other than a private investigator as defined in Section 7521 of the Business and Professions Code who, for any consideration whatsoever, engages in business or accepts employment to furnish, or agrees to make, or makes, any investigation for the purpose of obtaining, information in the course of adjusting or otherwise participating in the disposal of, any claim under or in connection with a policy of insurance or engages in soliciting insurance adjustment business with reference to:

Crime or wrongs done or threatened against the United States of America or any state or territory of the United States of America; the identity, habits, conduct, business, occupation, honesty, integrity, credibility, knowledge, trustworthiness, efficiency, loyalty, activity, movement, whereabouts, affiliations, associations, transactions, acts, reputation, or character of any person; the location, disposition, or recovery of lost or stolen property; the cause or responsibility for fires, libels, losses, accidents, or damage or injury to persons or to property; or securing evidence to be used before any court, board, officer, or investigating committee.

14022. This chapter does not apply to:

(a) A person employed exclusively and regularly by one employer in connection with the affairs of such employer only and where there exists an employer- employee relationship.

(b) An officer or employee of the United States of America, or of this state or a political subdivision thereof, while such officer or employee is engaged in the performance of his or her official duties.

(c) A person engaged exclusively in the business of obtaining and furnishing information as to the financial rating of persons.

(d) A charitable philanthropic society or association duly incorporated under the laws of this state, which is organized and maintained for the public good and not for private profit.

(e) An attorney at law in performing his or her duties as such attorney at law.

(f) A licensed collection agency or an employee thereof while acting within the scope of his or her employment, while making an investigation incidental to the business of the agency, including an investigation of the location of a debtor or his or her property where the contract with an assignor creditor is for the collection of claims owed or due or asserted to be owed or due or the equivalent thereof.

(g) Admitted insurers and agents and insurance brokers licensed by the state, performing duties in connection with insurance transacted by them.

(h) The legal owner of personal property which has been sold under a conditional sales agreement or a mortgagee under the terms of a chattel mortgage.

(i) Any bank subject to the jurisdiction of the Superintendent of Banks of the State of California or the Comptroller of Currency of the United States.

(j) A person engaged solely in the business of securing information about persons or property from public records.

14023. An application for a license under this chapter shall be on a form prescribed by the commissioner and accompanied by the application fee provided by this chapter.

14024. An application shall be verified and shall include:

(a) The full name and business address of the applicant.

(b) The name under which applicant intends to do business.

(c) A statement as to the general nature of the business in which the applicant intends to engage.

(d) A statement as to the classification or classifications under which the applicant desires to be qualified.

(e) If the applicant is a person other than an individual, the full name and residence address of each of its partners, officers, and directors, and its manager.

(f) Two recent photographs of the applicant, of a type prescribed by the commissioner, and two classifiable sets of his or her fingerprints.

(g) A verified statement of his or her experience qualifications.

(h) Such other information, evidence, statements, or documents as may be required by the commissioner.

14025. Before an application for a license is granted, the applicant, or his or her manager, shall meet all of the following:

(a) Be at least 18 years of age.

(b) Not have committed acts or crimes constituting grounds for denial of licensure under Section 480 of the Business and Professions Code.

(c) Shall have had at least two years of experience in adjusting insurance claims or the equivalent thereof as determined by the commissioner.

(d) Comply with such other qualifications as the commissioner may fix by rule.

14026. The commissioner may require an applicant, or his or her manager, to demonstrate his or her qualifications by a written or oral examination, or a combination of both.

14027. Payment of the application fee prescribed by this chapter entitles an applicant, or his or her manager, to one examination without further charge. If the person fails to pass the examination, he or she shall not be eligible for any subsequent examination except upon payment of the reexamination fee prescribed by this chapter for each such subsequent examination.

14028. After a hearing the commissioner may deny a license unless the application makes a showing satisfactory to the

commissioner that the applicant, if an individual, has not, or if the applicant is a person other than an individual, that its manager and each of its officers and partners have not:

(a) Committed any acts or crimes constituting grounds for denial of licensure under Section 480 of the Business and Professions Code.

(b) Been refused a license under this chapter or had a license revoked.

(c) Been an officer, partner, or manager of any person who has been refused a license under this chapter or whose license has been revoked.

(d) While unlicensed committed, or aided and abetted the commission of, any act for which a license is required by this chapter.

14029. (a) The business of each licensee shall be operated under the active direction, control, charge, or management, in this state, of the licensee, if such licensee is qualified, or the person who has qualified to act as the licensee's manager, if the licensee is not qualified.

(b) No person shall act as a manager of a licensee until he or she has complied with each of the following:

(1) Demonstrated his or her qualifications by a written or oral examination, or a combination of both, if required by the commissioner.

(2) Made a satisfactory showing to the commissioner that he or she has the qualifications prescribed by Section 14025 and that none of the facts stated in Section 14028 exist as to him or her.

(c) If the manager, who has qualified as provided in this section ceases for any reason whatsoever to be connected with the licensee to whom the license is issued, the licensee shall notify the commissioner in writing 30 days from such cessation. If notice is given, the license shall remain in force for a reasonable length of time to be determined by the rules of the commission pending the qualifications as provided in this chapter, or another manager. If the licensee fails to notify the commissioner within the 30-day period, his or her license shall be subject to suspension or revocation and may be reinstated only upon the filing of an application for reinstatement, payment of the reinstatement fee, if any is due, and the qualification of a manager as provided herein.

14030. Whenever the individual on the basis of whose qualifications a license under this chapter has been obtained ceases to be connected with the licensee for any reason whatever, the business may be carried on for such temporary period and under such terms and conditions as the commissioner shall provide by regulation.

14031. Whenever a hearing is held under this chapter to determine whether an application for a license should be granted or to determine the qualifications of a licensee's manager, the proceedings shall be conducted in accordance with Chapter 5 (commencing with Section 11501) of Part 1 of Division 3 of Title 2 of the Government Code, and the commissioner shall have all of the

powers granted therein.

14032. The form and content of the license shall be determined by the commissioner in accordance with Section 164 of the Business and Professions Code.

14033. The license shall at all times be posted in a conspicuous place in the principal place of business of the licenses.

14034. Upon the issuance of a license, a pocket card of such size, design, and content as may be determined by the commissioner shall be issued without charge to each licensee, if an individual, or if the licensee is a person other than an individual, to its manager and to each of its officers and partners, which card shall be evidence that the licensee is duly licensed pursuant to this chapter. When any person to whom a card is issued terminates his or her position, office, or association with the licensee, the card shall be surrendered to the licensee and within five days thereafter shall be mailed or delivered by the licensee to the department for cancellation.

14035. A licensee shall, within 30 days after such change, notify the department of any change of his or her address and of any change in the officers or partners of such licensee. The principal place of business may be at a home or at a business address, but it shall be the place at which the licensee maintains a permanent office.

Applications, on forms prescribed by the commissioner, shall be submitted by all new officers or partners. The commissioner may suspend or revoke a license issued under this chapter if he or she determines that at the time the person became an officer or partner of a licensee, any of the facts stated in Section 14028 existed as to such person.

14036. A license issued under this chapter is not assignable.

14037. A licensee shall at all times be legally responsible for the good conduct in the business of each of his or her employees or agents, including his or her manager.

14038. (a) Any licensee or officer, director, partner, or manager of a licensee may divulge to any law enforcement officer or district attorney, or to his or her representative, any information he or she may acquire as to any criminal offense, but he or she shall not divulge to any other person, except as he or she may be required by law to do so, any information acquired by him or her except at the direction of the employer or client for whom the information was obtained.

(b) No licensee or officer, director, partner, manager, or employee of a licensee shall knowingly make any false report to his or her employer or client for whom information was being obtained.

(c) No written report shall be submitted to a client except by the licensee, qualifying manager, or a person authorized by one or either of them, and such person submitting the report shall exercise diligence in ascertaining whether or not the facts and information in such a report are true and correct.

(d) No licensee, or officer, director, partner, manager, or employee of a licensee shall use a badge in connection with the official activities of the licensee's business.

(e) No licensee, or officer, director, partner, manager, or employee of a licensee, shall use a title, or wear a uniform, or use an insignia, or use an identification card, or make any statement with the intent to give an impression that he or she is connected in any way with the federal government, a state government, or any policial subdivision of a state government.

(f) No licensee, or officer, director, partner, manager, or employee of a licensee, shall enter any private building or portion thereof without the consent of the owner or of the person in legal possession thereof.

(g) No licensee shall appear as an assignee party in any proceeding involving claim and delivery, replevin, or other possessory action, action to foreclose a chattel mortgage, mechanic's lien, materialman's lien, or any other lien.

(h) No licensee shall permit an employee or agent in his or her own name to advertise, engage clients, furnish reports, or present bills to clients, or in any manner whatever to conduct business for which a license is required under this chapter. All business of the licensee shall be conducted in the name of and under the control of the licensee.

14039. No person licensed as an insurance adjuster shall do any of the following:

(a) Fail to disclose his or her full financial interest in a contract or agreement executed by him or her for the adjustment of a claim prior to the execution thereof.

(b) Use any misrepresentation to solicit a contract or agreement to adjust a claim.

(c) Solicit or accept remuneration from, or have a financial interest exceeding 3 percent in, any salvage, repair, or other firm, which obtains business in connection with any claim which he or she has a contract or agreement to adjust.

14040. Any badge or cap insignia worn by a person who is a licensee, officer, director, partner, manager, or employee of a licensee shall be of a design approved by the commissioner, and shall bear on its face a distinctive word indicating the name of the licensee and an employee number by which such person may be identified by the licensee.

14041. Each licensee shall maintain a record containing such information relative to his or her employees as may be prescribed by the commissioner.

14042. No licensee shall conduct a business under a fictitious or other business name unless and until he or she has obtained the written authorization of the commissioner so to do.

The commissioner shall not authorize the use of a fictitious or other business name which is so similar to that of a public officer or agency or of that used by another licensee that the public may be confused or misled thereby.

The authorization shall require, as a condition precedent to the use of any fictitious name, that the licensee comply with Chapter 5

(commencing with Section 17900) of Part 3 of Division 7 of the Business and Professions Code.

A licensee desiring to conduct his or her business under more than one fictitious business name shall obtain the authorization of the commissioner in the manner prescribed in this section for the use of each such name.

The licensee shall pay a fee of ten dollars (\$10) for each authorization to use an additional fictitious business name and for each change in the use of a fictitious business name. If the original license is issued in a nonfictitious name and authorization is requested to have the license reissued in a fictitious business name, the licensee shall pay a fee of ten dollars (\$10) for such authorization.

14043. Each licensee shall file with the commissioner the complete address of his or her principal place of business, including the name and number of the street or, if the street where the business is located is not numbered, the number of the post office box. The commissioner may require the filing of other information for the purpose of identifying such principal place of business.

14044. Every advertisement by a licensee soliciting or advertising business shall contain his or her name, address, and license number as they appear in the records of the commissioner. The commissioner may adopt regulations defining the term "advertisement" as used in this section.

14045. A licensee shall not advertise or conduct business from any location other than that shown on the records of the commissioner as his or her principal place of business unless he or she has received a branch office certificate for such location after compliance with the provisions of this chapter and such additional requirements necessary for the protection of the public as the commissioner may by regulation prescribe. A licensee shall notify the commissioner in writing within 10 days after closing or changing the location of a branch office.

#### Article 4. Bonds

14050. No license shall be issued under this chapter unless the applicant files with the commissioner a surety bond executed by a surety company authorized to do business in the state in the sum of two thousand dollars (\$2,000) conditioned for the faithful and honest conduct of business by such applicant. Such bond as to its form, execution, and sufficiency of the sureties shall be approved by the commissioner.

14051. The bond required by this article shall be taken in the name of the people of this state and every person injured by the willful, malicious, or wrongful act of the principal may bring an action on the bond in his or her own name to recover damages suffered by reason of such willful, malicious, or wrongful act.

14052. Every licensee shall at all times maintain on file the surety bond required by this acticle in full force and effect and upon failure

to do so the license of such licensee shall be forthwith suspended and shall not be reinstated until an application therefor, in the form prescribed by the commissioner, is filed together with a proper bond.

The commissioner may deny the application notwithstanding the applicant's compliance with this section:

(a) For any reason which would justify a refusal to issue, or a suspension or revocation of, a license.

(b) For the performance of any practice while under suspension for failure to keep his or her bond in force, for which a license under this article is required.

14053. In lieu of the surety bond required by this article there may be deposited with the State of California the sum of two thousand dollars (\$2,000) in cash, or evidence of deposit of the sum of two thousand dollars (\$2,000) in banks authorized to do business in this state and insured by the Federal Deposit Insurance Corporation, or investment certificates or share accounts in the amount of two thousand dollars (\$2,000) issued by a savings and loan association doing business in this state and insured by the Federal Savings and Loan Insurance Corporation, or evidence of a certificate of funds or share account of the sum of two thousand dollars (\$2,000) in a credit union, as defined in Section 14000 of the Financial Code, whose share deposits are guaranteed by the National Credit Union Administration or guaranteed by any other agency approved by the Department of Corporations.

14054. Bonds executed and filed with the commissioner pursuant to this article shall remain in force and effect until the surety has terminated future liability by 30-day notice to the commissioner.

#### Article 5. Disciplinary Proceedings

14060. Except as otherwise required to comply with the provisions of Article 6 (commencing with Section 14070), the proceedings under this article 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 commissioner shall have all the powers granted therein.

14061. The commissioner may suspend or revoke a license issued under this chapter if he or she determines that the licensee, or his or her manager, if an individual, or if the licensee is a person other than an individual, that any of its officers, directors, partners, or its manager, has:

(a) Made any false statement or given any false information in connection with an application for a license or a renewal or reinstatement of a license.

(b) Violated any provisions of this chapter.

(c) Violated any rule of the commissioner adopted pursuant to the authority contained in this chapter.

(d) Been convicted of any crime substantially related to the qualifications, functions and duties of the holder of the registration

or license in question.

(e) Impersonated, or permitted or aided and abetted an employee to impersonate a law enforcement officer or employee of the United States of America, or of any state or political subdivision thereof.

(f) Committed or permitted any employee to commit any act, while the license was expired which would be cause for the suspension or revocation of a license, or grounds for the denial of an application for a license.

(g) Willfully failed or refused to render to a client services or a report as agreed between the parties and for which compensation has been paid or tendered in accordance with the agreement of the parties.

(h) Committed assault, battery, or kidnapping, or used force or violence on any person, without proper justification.

(i) Knowingly violated, or advised, encouraged, or assisted the violation of any court order or injunction in the course of business as a licensee.

(j) Acted as a runner or capper for any attorney.

(k) Committed any act which is a ground for denial of an application for license under this chapter.

(l) Purchased, possessed, or transported any tear gas weapon except as authorized by law. A violation of this subdivision may be punished by the suspension of a license for a period to be determined by the commissioner.

14062. The record of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction as that term is used in this article or Section 14028.

A plea or verdict of guilty or a conviction following a plea of *nolo contendere* is deemed to be a conviction within the meaning of this article or Section 14028. The commissioner may order the license suspended or revoked, or may decline to issue a license, 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 allowing such person to withdraw his or her 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.

14063. The commissioner may suspend or revoke a license issued under this chapter if the commissioner determines that the licensee, or his or her manager, if an individual, or if the licensee is a person other than an individual, that any of its officers, directors, partners, or its manager, has:

(a) Used any letterhead, advertisement, or other printed matter, or in any matter whatever represented that he or she is an instrumentality of the federal government, a state or any political subdivision thereof.

(b) Used a name different from that under which he or she is

currently licensed in any advertisement, solicitation, or contract for business.

14064. The commissioner may suspend or revoke a license issued under this chapter if the commissioner determines that the licensee, or his or her manager, if an individual, or if the licensee is a person other than an individual, that any of its officers, directors, partners, or its manager, has committed any act in the course of the licensee's business constituting dishonesty or fraud.

"Dishonesty or fraud" as used in this section includes, in addition to other acts not specifically enumerated herein:

(a) Knowingly making a false statement relating to evidence or information obtained in the course of employment, or knowingly publishing a slander or a libel in the course of business;

(b) Using illegal means in the collection or attempted collection of a debt or obligation;

(c) Manufacture of evidence;

(d) Acceptance of employment adverse to a client or former client relating to a matter with respect to which the licensee has obtained confidential information by reason of or in the course of his or her employment by such client or former client.

14065. The commissioner, in lieu of suspending or revoking a license issued under this chapter for violations of Sections 14061, 14063, and 14064, may impose a civil penalty not to exceed five hundred dollars (\$500) upon a licensee, if the commissioner determines that such action better serves the purposes of this chapter.

#### Article 6. Nonresidents

14070. As used in this article, "presiding officer" means the executive officer of the Office of Administrative Hearings.

14071. The acceptance by a nonresident licensee of any of the rights and privileges conferred upon him or her by this chapter, as evidenced by his or her performance within this state, either personally or through an employee, of any act for which a license is required by this chapter, is equivalent to the appointment by such licensee of the presiding officer as his or her true and lawful attorney upon whom may be served all lawful process in any disciplinary proceeding conducted against him or her under this chapter.

14072. The acceptance of such rights and privileges as evidenced by such act shall signify the agreement of the licensee that any such process which is served against him or her in the manner provided in this article shall be of the same legal force and validity as if served upon him or her personally in this state.

14073. Service shall be made by leaving a copy of the accusation, together with a notice of defense and statement to respondent as described in Section 11505 of the Government Code, with a fee of two dollars (\$2) for each licensee to be served, in the hands of the presiding officer or in his or her office in Sacramento. Such service

shall be sufficient service on the licensee subject to compliance with Section 14074.

14074. A notice of such service and a copy of the accusation, together with the notice of defense and statement to respondent, shall forthwith be sent by registered mail by the presiding officer to the licensee at his or her last known address as furnished by the commission. Personal service of such notice, copy of the accusation, notice of defense, and statement to respondent upon the licensee wherever found outside this state shall be the equivalent of such mailing.

14075. Proof of compliance with Section 14074 shall be made in the event of service by mail by affidavit of the presiding officer or his or her authorized employee showing such service by mailing, together with the return receipt of the United States post office bearing the signature of the licensee or his or her agent. Such affidavit and receipt shall be appended to the original accusation on file with the commissioner. 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 process in civil actions in the state or jurisdiction where the licensee is found, showing such service to have been made. Such return shall be appended to the original accusation on file with the commissioner.

14076. The commissioner, or if the proceeding is heard before a hearing officer of the Office of Administrative Hearings, such hearing officer, may order such postponements or continuances and grant such extensions of time as may be necessary to afford the licensee reasonable opportunity to defend the proceeding. In no event shall the licensee have less than 30 days after the date of service of the accusation in which to file a notice of defense, nor shall the notice of hearing provided for in Section 11509 of the Government Code or the notice and copy of affidavit referred to in Section 11514 of the Government Code be mailed or delivered less than 20 days prior to the date of hearing, and the time for making a request to cross-examine under Section 11514 of the Government Code shall not be less than 15 days.

14077. The presiding officer shall keep a record of all process served upon him or her pursuant to this article, which record shall show the day and hour of service.

14078. As used in this article, "nonresident" means a person who is not a resident of this state at the time of the performance of the act referred to in Section 14071.

#### Article 7. Penal Provisions

14080. Any person who knowingly falsifies the fingerprints or photographs submitted under subdivision (f) of Section 14024 is guilty of a felony. Any person who violates any of the other provisions of this chapter is guilty of a misdemeanor punishable by fine not to exceed five hundred dollars (\$500), or by imprisonment in the

county jail not to exceed one year, or by both such fine and imprisonment.

#### Article 8. Expiration and Renewal of Licenses and Cards

14090. Every license, branch office certificate, and pocket card issued under this chapter shall expire on May 31 of each even-numbered year. 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 commissioner, and pay the renewal fee prescribed by this chapter. On renewal, such evidence of renewal of the license or certificate as the commissioner may prescribe, and renewal pocket cards for the persons mentioned in Section 14034, shall be issued to the licensee.

14090.1. Notwithstanding Section 14090, the commissioner may establish license periods and renewal dates for all licenses issued pursuant to this chapter so as to distribute the renewal work to permit the most efficient and economical use of personnel and equipment. In such cases, to the extent practicable, provision shall be made for the proration or other adjustment of fees so that no person shall be required to pay more than that which he or she would have been required to pay had no change in license periods or renewal dates been made.

14091. Except as otherwise provided in this article, an expired license or branch office certificate may be renewed at any time within five years after its expiration on the filing of an application for renewal on a form prescribed by the commissioner, and the payment of the renewal fee in effect on the last preceding regular renewal date. If the license or certificate is renewed more than 30 days after its expiration, the licensee, as a condition precedent to renewal, shall also pay the delinquency fee prescribed by this chapter. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date on which the delinquency fee, if any, is paid, whichever last occurs. If so renewed, the license or certificate shall continue in effect through the date provided in Section 14090 which next occurs after the effective date of the renewal, when it shall expire if it is not again renewed.

Renewal of a license or certificate shall not prohibit the bringing of disciplinary proceedings for an act committed before the effective date of the renewal.

14092. A suspended license or branch office certificate is subject to expiration and shall be renewed as provided in this article, but renewal of the license does not entitle the licensee, while the license remains suspended and until it is reinstated, to engage in the licensed activity, or in any other activity or conduct in violation of the order or judgment by which the license was suspended, and renewal of the branch office certificate does not entitle the licensee, while the certificate remains suspended, and until it is reinstated, to engage in

the licensed activity at the location for which the certificate was issued, or to engage in any other activity or conduct in violation of the order or judgment by which the certificate was suspended.

14093. A revoked license or branch office certificate is subject to expiration as provided in this article, but it may not be renewed. If it is reinstated after its expiration, the licensee, as a condition precedent to its reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the last regular renewal date before the date on which it is reinstated, plus the delinquency fee, if any, accrued at the time of its revocation.

14094. A license or branch office certificate which is not renewed within five years after its expiration may not be renewed, restored, reinstated, or reissued thereafter; and a license which expired before October 1, 1958, and was not reinstated before October 1, 1961, may not be renewed, restored, reinstated, or reissued.

The holder of the license or certificate may obtain a new license or certificate only on compliance with all of the provisions of this chapter relating to the issuance of an original license or certificate.

#### Article 9. Revenue

14097. The amount of fees prescribed by this chapter, unless otherwise fixed, is that fixed in the following schedule:

(a) The application fee for an original license is twenty-five dollars (\$25).

(b) The application fee for an original branch office certificate is fifteen dollars (\$15).

(c) The fee for an original license is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the license is issued, except that, if the license will expire less than one year after its issuance, then the fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the license is issued. The commissioner may, by appropriate regulation, provide for the waiver or refund of the initial license fee where the license is issued less than 45 days before the date on which it will expire.

(d) The renewal fee shall be fixed by the commissioner as follows:

(1) For a license as an insurance adjuster, not more than one hundred dollars (\$100).

(2) For a branch office certificate, not more than twenty dollars (\$20).

(e) The application and license fee for classifications prescribed by the commissioner, in addition to those provided for in this chapter, and the application and license fees for a change in the type of business organization of a licensee, shall be in the amount prescribed by rule and regulation of the commissioner.

(f) The delinquency fee shall be 50 percent of the renewal fee in effect on the date of expiration, but not more than twenty-five dollars (\$25).

(g) The fee for reexamination of an applicant or his manager is ten dollars (\$10).

14098. The department shall receive and account for all money derived from the operation of this chapter and, at the end of each month, shall report such money to the Controller and shall pay it to the Treasurer, to the credit of the Insurance Fund.

14099. Application or license fee shall not be refunded except in accordance with Section 158 of the Business and Professions Code.

SEC. 12. On the effective date of this act, the Controller shall transfer the sum of thirty-two thousand dollars (\$32,000) from the Private Investigator Fund to the Insurance Fund for the purpose of carrying out the provisions of Chapter 1 (commencing with Section 14000) of Division 5 of the Insurance Code.

SEC. 13. The provisions of this act shall become operative on July 1, 1981.

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## CHAPTER 1191

An act to repeal Section 4302 of the Civil Code, to amend Section 48204 of, and to add Chapter 8 (commencing with Section 56850) to Part 30 of, the Education Code, and to amend Section 4482 of, and to add Sections 4011.5, 4302, and 4501.5 to, the Welfare and Institutions Code, relating to special education programs, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1980 Filed with  
Secretary of State September 29, 1980]

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

SECTION 1. The Legislature, in Chapters 1247 and 1252 of the Statutes of 1977, Chapter 797 of the Statutes of 1980, and the federal government in Public Law 94-142 declared that all individuals with exceptional needs have a right to participate in appropriate programs of publicly supported education and that special education programs and related services for these persons are needed in order to ensure them the right to an appropriate educational opportunity.

SEC. 2. Section 4302 of the Civil Code is repealed.

SEC. 3. Section 48204 of the Education Code is amended to read:

48204. Notwithstanding Section 48200, a pupil shall be deemed to have complied with the residency requirements for school attendance in a school district, provided he or she is:

(a) A pupil placed within the boundaries of that school district in a regularly established licensed children's institution, or a licensed foster home, or a family home pursuant to a commitment or placement under Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code.

An agency placing a pupil in such a home or institution shall provide evidence to the school that the placement or commitment is pursuant to law.

(b) A pupil for whom interdistrict attendance has been approved pursuant to the provisions of Chapter 5 (commencing with Section 46600) of Part 26 of Division 3 of this title.

(c) A pupil whose residence is located within the boundaries of that school district and whose parent or legal guardian is relieved of that responsibility, control, and authority through emancipation.

(d) A pupil whose parent or legal guardian has established the residence of the pupil in a home located within the boundaries of that school district, provided such home is properly licensed as required by law. The person maintaining such a home shall provide evidence to the school that a current license is in effect or that a license is not required under the law.

(e) A pupil residing in a state hospital located within the boundaries of that school district.

SEC. 4. Chapter 8 (commencing with Section 56850) is added to Part 30 of the Education Code, to read:

#### CHAPTER 8. SPECIAL EDUCATION PROGRAMS FOR INDIVIDUALS WITH EXCEPTIONAL NEEDS RESIDING IN STATE HOSPITALS

56850. The purpose of the Legislature in enacting this chapter is to recognize that individuals with exceptional needs of mandated school age, residing in California's state hospitals for the developmentally disabled and mentally disordered, are entitled to, under Public Law 94-142, the federal Education for All Handicapped Children Act of 1975, and Public Law 93-112, the federal Rehabilitation Act of 1973, the same access to educational programs as is provided for individuals with exceptional needs residing in our communities.

It is the intent of the Legislature to ensure that services shall be provided in the community near the individual state hospitals to the maximum extent appropriate, and in the least restrictive environment.

It is the further intent of the Legislature to ensure equal access to the educational process and to a full continuum of educational services for all individuals, regardless of their physical residence.

It is the further intent of the Legislature that educational services designated for state hospital residents not eligible for services mandated by Public Law 94-142 shall not be reduced or limited in any manner as a result of the enactment of this chapter.

It is the further intent of the Legislature that any cooperative agreements to provide educational services for state hospitals shall seek to maximize federal financial participation in funding such services.

56851. (a) In developing the individualized educational program for an individual residing in the state hospitals who is

eligible for services under Public Law 94-142, a state hospital shall include on its interdisciplinary team a representative of the county office of education in which the state hospital is located or a representative of a school district, and the individual's teacher, depending on whether the state hospital is otherwise working with such county superintendent of schools or a school district for the provision of special education programs and related services to individuals with exceptional needs residing in state hospitals. However, if a school district that is required by this section to provide a representative from such district does not do so, the county office of education shall provide a representative.

(b) The state hospital shall reimburse the school district or the county office of education, as the case may be, for the costs, including salary, of providing the representative.

56852. In developing the individualized educational program and providing all special education programs and related services to individuals with exceptional needs residing in the state hospitals, the state hospitals shall comply with the requirements of Public Law 94-142, Public Law 93-112, and special education provisions of this part and implementing regulations. Special education and related services shall be provided to each individual residing in a state hospital pursuant to the individualized education program for that individual.

The State Department of Education, within its existing program review process, shall specifically review the appropriateness of pupil placement for educational services as designated on the pupil's individualized educational plan and the criteria used in determining such placement.

56853. Nothing contained in this chapter shall affect the continued authority of the State Departments of Developmental Services and Mental Health over educational programs for individuals not eligible for services under Public Law 94-142 nor shall it affect the overall responsibility of the state hospitals for the care, treatment, and safety of individuals with exceptional needs under their control. The state hospitals shall continue to render appropriate and necessary developmental services, health related services, psychiatric services, and related services assigned to the state hospitals in the local interagency agreements, as part of their responsibilities for the care and treatment of state hospital residents.

56854. (a) The Superintendent of Public Instruction and the Directors of the State Departments of Developmental Services and Mental Health shall develop written interagency agreements to carry out the purposes of this chapter. The agreements shall include, but are not limited to, guidelines for the calculation of reasonable costs for services in the development of contracts between state hospitals and local public education agencies or nonpublic schools. Such agreements shall be reviewed and updated annually by July 1 of each fiscal year.

(b) For each county in which a state hospital is located, the county

superintendent of schools, with the approval of the county board of education and the administrator of the state hospital, shall develop a local written interagency agreement to carry out the purposes of this chapter. Such agreements shall be reviewed and updated by July 1 of each fiscal year, but may be modified at any time with the concurrence of both parties to the agreements.

56855. For each county in which a state hospital is located the county superintendent of schools shall ensure that appropriate special education and related services are available in the community for which the state hospitals can contract. Such contract shall provide for any eligible individual with exceptional needs residing in the state hospitals whose individualized education program specifies that educational services for that individual should be most appropriately provided, in whole or in part, in a program other than on the hospital grounds. The county board of education shall approve any programs operated by the county superintendent pursuant to this chapter.

56856. (a) In order to provide appropriate special education and related services to an individual residing in a state hospital, the State Departments of Developmental Services and Mental Health shall contract with a local public education agency, nonpublic, nonsectarian school, or other agency to provide all or part of the services that the individual's individualized education program indicates should be provided in a program other than on state hospital grounds.

(b) Any contract prescribed by this section shall go into effect unless disapproved by the Department of Finance within 10 working days of receipt of such contract.

(c) Nothing in this section shall prohibit the inclusion of in-kind services or the assignment of state hospital personnel in a contract for services pursuant to this section.

56857. Nothing in this chapter shall preclude the State Departments of Developmental Services and Mental Health from contracting with a local public education agency, nonpublic, nonsectarian school, or other agency to provide special education and related services on the state hospital grounds for those pupils whose individualized education programs do not indicate that such education and services should be provided in a program other than on state hospital grounds.

56858. In contracting for services pursuant to this chapter, the State Departments of Developmental Services and Mental Health shall pay the amount upon which the parties have agreed and which has been made a part of the contract for providing the programs and services required by the individualized education program. If a pupil is enrolled in a local public educational agency or nonpublic school with the approval of the state hospital and the local public educational agency or nonpublic school prior to agreement to a contract, the state hospital 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 calendar days during which time the contract shall be consummated. The Superintendent of Public Instruction shall monitor the use of these funds to ensure that they are being expended pursuant to the provisions of this chapter, to provide special education and related services to individuals residing in state hospitals.

56859. (a) All certificated state hospital employees hired to provide educational services to individuals of mandated school age after the effective date of this chapter shall possess an appropriate California credential in special education. Current certificated state hospital employees who do not possess appropriate California credentials in special education shall be given a period of not more than five years from the effective date of this chapter to obtain such appropriate credentials. Certificated state hospital employees who do not possess appropriate California credentials in special education at the end of the five-year period shall be reassigned to provide educational services to individuals residing in state hospitals who are not eligible for services under Public Law 94-142.

(b) A state hospital may employ a person as an instructional permit teacher if he or she has satisfied the requirements relating to such teachers, pursuant to regulations adopted by the State Board of Education.

56860. The State Departments of Developmental Services, Education, and Mental Health shall submit a joint report to the Legislative Analyst by December 1, 1980, which shall include, but not be limited to, the following:

- (a) The implementation of this chapter.
- (b) ~~The costs of contracts pursuant to this chapter.~~
- (c) The adequacy of education and related services provided pursuant to this chapter.
- (d) The adequacy of fiscal support for educational services provided on hospital grounds and, pursuant to this chapter, in the community.
- (e) Recommendations for legislative action.
- (f) Identification of funding sources and the amounts used to support education and related services for all state hospital residents eligible for services under Public Law 94-142.

56861. The Legislative Analyst shall prepare, in consultation with the developmental disabilities area boards, a report to the Legislature, the Governor, and the Superintendent of Public Instruction by March 15, 1981, and annually each year thereafter until March 15, 1983, regarding all of the following:

- (a) The implementation of this chapter.
- (b) The costs of contracts pursuant to this chapter.
- (c) The adequacy of education and related services provided pursuant to this chapter.
- (d) The adequacy of fiscal support for educational services

provided on hospital grounds and, pursuant to this chapter, in the community.

(e) Recommendations for legislative action.

56862. It is not the intent of this chapter to displace educational and related services personnel already employed by the state hospitals under the administration of the State Department of Developmental Services or the State Department of Mental Health, or to reduce their salaries or other employee benefits.

The State Department of Developmental Services and the State Department of Mental Health shall complete a quarterly review of the impact that implementation of this act will have in reducing the need for positions in state hospitals due to time spent by residents in community education programs and shall submit a report on its findings to the Department of Finance for approval.

56863. Within 30 days of the effective date of this section, the Superintendent of Public Instruction, with the approval of the State Department of Developmental Services or the State Department of Mental Health, as appropriate, shall notify parents of pupils who reside in state hospitals and are eligible for educational services under Public Law 94-142, of the provisions of this article, including their right to initiate a review of pupil placement for educational services.

For the purposes of this section, the term "parent of pupil" shall mean a parent, a legal guardian, a conservator, a person acting as a parent of a child, or a surrogate parent appointed pursuant to Public Law 94-142.

Except as otherwise provided in this section, information and records concerning state hospital patients in the possession of the Superintendent of Public Instruction shall be treated as confidential under Section 5328 of the Welfare and Institutions Code and the Federal Privacy Act of 1974, Public Law 93-579.

SEC. 5. Section 4011.5 is added to the Welfare and Institutions Code, to read:

4011.5. In counties where State Department of Mental Health hospitals are located, the state hospitals shall ensure that appropriate special education and related services, pursuant to Chapter 7 (commencing with Section 56875) of Part 30 of the Education Code, are provided eligible individuals with exceptional needs residing in state hospitals.

SEC. 6. Section 4302 is added to the Welfare and Institutions Code, to read:

4302. The Director of the State Department of Mental Health shall have the final authority for determining all other employee needs after consideration of program requests from the various hospitals, and with the concurrence of the Health and Welfare Agency, the State Personnel Board, the Department of Finance, and the Department of General Services, as appropriate, may establish positions to assist with the planning, development, direction, management, supervision, and evaluation of patient, administrative

and support services in the hospital facility.

SEC. 7. Section 4482 of the Welfare and Institutions Code is amended to read:

4482. The Director of the State Department of Developmental Services shall have the final authority for determining all other employee needs after consideration of program requests from the various hospitals, and with the concurrence of the Health and Welfare Agency, the State Personnel Board, the Department of Finance and the Department of General Services, as appropriate, may establish positions to assist with the planning, development, direction, management, supervision, and evaluation of patient, administrative and support services in the hospital facility.

SEC. 8. Section 4501.5 is added to the Welfare and Institutions Code, to read:

4501.5. In counties where State Department of Developmental Services hospitals are located, the state hospitals shall ensure that appropriate special education and related services, pursuant to Chapter 8 (commencing with Section 56850) of Part 30 of the Education Code, are provided eligible individuals with exceptional needs residing in state hospitals.

SEC. 9. It is not the intent of the Legislature to replace funding for educational and related services which is already provided through agreements between state hospitals and local public education agencies, nonpublic schools or other agencies that provide all or part of the services specified in an individualized education program for a resident of the state hospitals.

SEC. 10. There is hereby appropriated from the General Fund to the State Departments of Developmental Services and Mental Health the sum of nine hundred twenty-six thousand dollars (\$926,000) for the 1980-81 fiscal year for the purposes of this act. No funds appropriated under this section shall be allocated to the State Department of Education.

SEC. 11. 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 seven hundred fifty thousand dollars (\$750,000) for allocation for the 1980-81 fiscal year for the purposes of Chapter 25 (commencing with Section 17785) of Part 10 of the Education Code, to meet capital outlay needs in accordance with criteria adopted by the State Allocation Board to provide the services required by this act.

Any balances remaining from this appropriation at the end of the fiscal year shall be carried forward into the next succeeding fiscal year for the purposes of funding.

SEC. 12. (a) (1) The Superintendent of Public Instruction shall certify to the Controller the amount allocated to county offices of education for the 1979-80 fiscal year for education and related services for pupils residing in the state hospitals.

(2) The Controller shall compute the sum of the amount certified pursuant to paragraph (1) and 9 percent of that amount.

(b) Upon the effective date of this act, the amount computed pursuant to paragraph (2) of subdivision (a) of this section shall be reappropriated from the General Fund for the purposes of this act from the amount appropriated pursuant to category (b) of Item 352 of the Budget Act of 1980 (Ch. 510, Stats. 1980) in augmentation of Items 297 and 302 of the Budget Act of 1980.

The Director of Finance shall determine the manner in which the total amount reappropriated by this section shall be allocated between the Department of Developmental Services and the Department of Mental Health so that the purposes of this act are carried out.

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:

All handicapped children of mandated school age are entitled to a free, appropriate public education under Public Law 94-142. Section 504 of Public Law 93-112 provides that no otherwise qualified handicapped individual shall, solely by reason of his or her handicap, be excluded from the participation in, be denied the benefits of, or be subjected to, discrimination under any program or activity receiving federal financial assistance. In order to comply with these federal laws and not jeopardize substantial sums of federal support dollars for educating the children of our state for the entire 1979-80 fiscal year, to comply with state educational standards for individuals with exceptional needs, and to provide a full continuum of alternate placements for all eligible handicapped individuals regardless of residence, it is necessary that this act take effect immediately.

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## CHAPTER 1192

An act to amend Section 44955 of, add Section 37000.5 to, to add Chapter 4 (commencing with Section 35700) to Part 21 of, to repeal and add Chapter 3 (commencing with Section 35500) to Part 21 of, and to repeal Sections 44902 and 45118 of, and to repeal Article 6 (commencing with Section 39420) of Chapter 3 of Part 23 of, the Education Code, relating to school districts.

[Approved by Governor September 27, 1980 Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. Chapter 3 (commencing with Section 35500) of Part 21 of the Education Code is repealed.

SEC. 2. Chapter 3 (commencing with Section 35500) is added to Part 21 of the Education Code, to read:

### CHAPTER 3. REORGANIZATION OF SCHOOL DISTRICTS—GENERAL PROVISIONS

#### Article 1. Legislative Intent and Purpose

35500. It is the intent of the Legislature to utilize the organization of districts as they exist on January 1, 1981, and the master plan for school district organization in each county, which was developed and approved under the provisions of this chapter as they existed prior to January 1, 1981, as the basis for future reorganization of districts in each county.

35501. On and after January 1, 1981, the provisions of this chapter and Chapter 4 (commencing with Section 35700) shall apply, and the provisions of Part 3 (commencing with Section 4000), except Article 4 (commencing with Section 4290) of, and Article 5 (commencing with Section 4310) of Chapter 2 of, Part 3, shall not apply, to an action to reorganize school districts.

The provisions of Part 3 (commencing with Section 4000) shall continue to apply to actions to organize or reorganize community college districts.

#### Article 2. Definitions

35510. Unless the context otherwise requires, the definitions set forth in this article govern the construction of this chapter.

35511. An "action to reorganize districts" means an action to form, dissolve, or lapse a school district, to annex all or part of the territory of a district to another district, to transfer all or part of a district to another district, the unification or deunification of a school district, or to otherwise alter the boundaries of a school district, or any combination of all such actions.

35512. "County committee" means the county committee on school district organization, organized and acting as provided for in Article 4 (commencing with Section 4290) of Chapter 2 of Part 3, or the county board of education, organized and acting as provided for in Article 5 (commencing with Section 4310) of Chapter 2 of Part 3.

35513. For the purposes of any reference in this chapter to "districts of the same kind," all elementary school districts are districts of the same kind, all high school districts are districts of the same kind, and all unified school districts are districts of the same kind.

35514. "Districts" means school districts of every kind or class.

35515. "Component district" means an elementary school district which is included within a high school districts.

35516. "Former district" means a district which has been wholly included in another district. The boundaries of a former district are those of the district as it existed immediately prior to being wholly included in another district.

### Article 3. Reorganization of Districts Under the Jurisdiction of Different Counties

35520. In any action to reorganize school districts, which are located in more than one county and are under the jurisdiction of different county superintendents of schools, the proceedings to be conducted or the actions to be taken by county officers or agencies shall be conducted or taken in each of the counties involved, except as provided in this article or as otherwise provided by law.

35521. Any petition to a county officer or agency in an action referred to in Section 35520 shall be presented in each county. The sufficiency of the petition shall be determined jointly by the county superintendents who have jurisdiction over the districts in which any petitioners reside.

35522. Any election in an action referred to in Section 35520 shall be called and conducted by each county superintendent in the districts which are under his or her jurisdiction and in which the election is to be held. The designation of the date and hours of the election, the form and content of the ballot, and the declaration of the result of the election shall be by joint action of the county superintendents having jurisdiction over the districts who call and conduct the election.

35523. Any public hearing required, or allowed to be held, in an action referred to in Section 35520 may be conducted in each county, or jointly in either county, as it appears most convenient and practical to the county officers or agencies conducting the hearing.

35524. Any decision in an action referred to in Section 35520 to recommend reorganization or to recommend approval or disapproval of a petition for reorganization may be taken at, or following, a joint public hearing. If separate hearings are conducted in each county, a decision to grant or deny the proposed reorganization shall be made only after findings and tentative conclusions of the hearings in each county have been transmitted to the officer or agency which conducted the hearings in each of the other counties.

### Article 4. Completion and Effective Dates for Action

35530. An action to reorganize districts is complete when the board of supervisors makes the order required pursuant to Section 35765.

35531. An action to form a unified school district pursuant to Section 35543 is complete upon the date of completion of the action by which the boundaries of the districts comprising the unified school district become coterminous.

35532. Except as otherwise provided in this article, in any school district which is created or whose boundaries or status is changed by an action to reorganize districts, the changes shall be effective on the date when all of the following are completed:

(a) The determination of the assessed valuation of any district or districts affected by the action.

(b) The appointment or election of members of the governing board.

(c) The preparation and submission of the school district budgets.

(d) The election or appointment of an executive officer and other employees required to service the immediate needs of the district.

(e) The election or appointment of employees for the ensuing school year.

(f) The calling and conducting of any elections authorized by law relative to the financing of the district, including bonded indebtedness, tax rates, and State School Building Fund.

(g) The expenditure of funds available to the district.

(h) The exercise by the governing board of the school district of other powers and duties vested in governing boards of the districts of the same type of class and not inconsistent with other provisions of this code.

(i) The receipt and expenditure of funds transferred pursuant to Section 42623.

(j) The issuing and selling of bonds.

35533. Any district which is reorganized so as to be wholly absorbed into one or more other districts shall, after the date the action is complete and until the action is effective for all purposes, continue to have all of the powers and duties vested in governing boards of the same kind and not inconsistent with other provisions of this code.

35534. Except as provided in Sections 35535 and 35536 and subject to compliance with Section 5400 of the Government Code, any action to reorganize a school district shall be effective for all purposes on July 1 of the calendar year following the calendar year in which such action is completed.

35535. An order of a county board of education attaching the territory of a lapsed district to one or more adjoining districts shall be effective for all purposes on the date of the order.

35536. At any time after the appointment or election of the governing board of a school district and the naming of the school district, the board may secure an option to purchase land for school purposes for which school district bonds may be issued. The board may proceed, thereafter, in accordance with the provisions of this code, governing the issuance of school district bonds, with the same effect as though control of the property of the district had already been vested in the board.

#### Article 5. Territory of School Districts

35540. The boundaries of each high school district shall be coextensive with the boundaries of the component districts included within it.

35541. When the boundaries of a district which is a component of

a high school district are for any cause changed to include territory in, or to exclude from, the district, the territory added to, or removed from, the district shall, at the same time, be included in, or excluded from, the high school district.

35542. Whenever the boundaries of an elementary school district and a high school district become coterminous, the districts are merged into a new unified district.

35543. On or after January 1, 1981, a school district shall not be formed or reorganized to include territory which is separated from other portions of the territory of the district by the territory of one or more other school districts.

35544. Whenever territory is transferred or added by means of reorganization to another district in which trustee areas have been established, the territory being transferred shall become a part of the trustee areas to which it is contiguous. In the event that the territory being transferred is contiguous to more than one trustee area, terms of agreement to the transfer may include provisions for the division of the transferred territory among the trustee areas to which it is contiguous.

35545. (a) Prior to the date upon which a newly organized or reorganized district becomes effective for all purposes, the county committee may include all, or part of, the territory in plans and recommendations for further reorganization.

(b) During the first five years after the effective date for all purposes of the formation of a school district, no territory shall be removed from the district without the consent of the governing board of the district.

35546. Territory within the boundaries of a city may not be withdrawn from a school district governed by a board provided for in the charter of the city without the consent of the governing board of the district.

#### Article 6. Personnel in Reorganized Districts

35555. The reorganization of any school district or districts shall not affect the classification of certificated employees already employed by any school district affected. Such employees shall have the same status with respect to their classification by the district, including time served as probationary employees of the district, after the reorganization as they had prior to it. If such reorganization results in the school or other place in which any such employee is employed being maintained by another district, any such employee, if a permanent employee of the district which formerly maintained such school or other place of employment, shall be employed as a permanent employee of the district which thereafter maintains the school or other place of employment, unless such employee elects prior to February 1 of the year in which the action will become effective for all purposes to continue in the employ of the first district.

If such employee is a probationary employee of the district which formerly maintained such school or other place of employment, he or she shall be employed by the district which thereafter maintains the school or other place of employment, unless such probationary employee is terminated by such district pursuant to Section 44948, 44949, or 44955, and, if not so terminated, his or her status with respect to classification by such district shall be the same as it would have been had the school or other place of employment continued to be maintained by the district which formerly maintained it. As used in this paragraph, "the school or other place in which any such employee is employed" and all references thereto, includes, but is not limited to, the school services or school program which, as a result of any reorganization of a school district, will be provided by another district, regardless of whether any particular building or buildings in which such schoolwork or school program was conducted is physically located in the new district and regardless of whether any new district resulting from such reorganization elects to provide for the education of its pupils by contracting with another school district until such time as the new district constructs its own facilities.

35556. The reorganization of any school district, or districts, shall not affect the rights of persons employed in positions not requiring certification qualifications to retain the salary, leaves, and other benefits which they would have had had the reorganization not occurred, and in the manner provided in this section:

(a) All employees of every school district which is included in any other district, or all districts included in a new district, shall become employees of the new district.

(b) When a portion of the territory of any district becomes part of another district, employees regularly assigned to perform their duties in the territory affected shall become employees of the acquiring district. Employees whose assignments pertained to the affected territory, but whose employment situs was not in such territory, may elect to remain with the original district or become employees of the acquiring district.

(c) When the territory of any district is divided between, or among, two or more districts and the original district ceases to exist, employees of the original district regularly assigned to perform their duties in any specific territory of such district shall become employees of the district acquiring the territory. Employees not assigned to specific territory within the original district shall become employees of any acquiring district at the election of the employees.

(d) Employees regularly assigned by the original district to any school in the district shall be an employee of the district in which the school is located. Except as provided in this section, nothing in this section shall deprive the governing board of the acquiring district from making reasonable reassignments of duties.

Article 7. Disposition of Records, Funds, Property, and Obligations When Reorganized

35560. When a school district is reorganized and when the allocation of funds, property, and obligations is not fixed by terms, conditions, or recommendations as provided by law, the funds, property, and obligations of a former district, except for bonded indebtedness, shall be allocated as follows:

(a) The real property and personal property and fixtures normally situated thereat shall be the property of the district in which the real property is located.

(b) All other property, funds, and obligations, except bonded indebtedness, shall be divided pro rata among the districts in which the territory of the former district is included. The basis for the division and allocation shall be the assessed valuation of the part of the former district which is included within each of the districts.

35561. Any funds derived from the sale of the school bonds issued by the former district shall be used for the acquisition, construction, or improvement of school property only in the territory which comprised the former district or to discharge bonded indebtedness of the former district, except that if the bonded indebtedness is assumed by the new district, the funds may be used in any area of the new district for the purposes for which the bonds were originally voted.

35562. If all the territory of any school district becomes part of two or more districts of any type, and the inclusion in the two or more new school districts of the several portions of territory comprising the whole of the original district is effective for all purposes on the same date, the records of the original district shall be disposed of as follows:

(a) All records of the original district which are required by law to be kept on file shall be deposited with the governing board of the district which, after the reorganization has become effective for all purposes, has located within its boundaries the former office of the superintendent of the original district.

(b) Records of employees shall be transferred to the district thereafter employing the personnel or thereafter maintaining the last place of employment.

(c) Records of pupils shall be transferred to the district which, after the date on which the reorganization becomes effective for all purposes, maintains the school in which a pupil was last enrolled.

35563. (a) If all of the territory of any school district becomes part of two or more school districts of any type, and the inclusion in the two or more new school districts of the several portions of territory comprising the original district is effective for all purposes on the same date, the county superintendent of schools having jurisdiction over the original district shall assume responsibility for all of the following:

(1) Completing all records and reports of the original district.

(2) Paying all outstanding obligations, except obligations resulting from contracts which are to be assumed by a succeeding district.

(3) Preparing for proper filing all records of the district required to be kept permanently by the provisions of any applicable code.

(4) Distributing records as provided in Section 35562.

(5) Employing an auditor as required in Section 41020.

(6) Discharging such other functions as he or she shall deem necessary to the dissolution of the district.

(b) In discharging these duties, the county superintendent may request the services of employees of the original or succeeding district, and the succeeding districts shall release such employees to the county superintendent for the purpose of accomplishing the requirements of this section. The salaries of such employees and all other necessary expenses of completing the requirements of this section shall be charged against the accumulated funds of the dissolved district prior to the final distribution of such funds to the succeeding districts.

35564. If the reorganization of a school district under this chapter results in the relocation of district boundaries so that a portion of the pupils will not be residents of the district thereafter maintaining a school previously attended by the pupils, and if there is in the school an organized student body, the property, funds, and obligations of the student body shall be divided as determined by the county committee, except that the share shall not exceed an amount equal to the ratio which the number of pupils leaving the school bears to the total number of pupils enrolled. The ownership of the property, funds, and obligations, which is the proportionate share of each segment of the student body, shall be transferred to the student body of the school or schools in which the pupils are enrolled after the reorganization. Funds from devises, bequests, or gifts made to the organized student body of a school shall remain the property of the organized student body of that school and shall not be divided.

35565. If a dispute arises between the governing boards of the districts concerning the division of funds, property, or obligations, a board of arbitrators shall be appointed which shall resolve the dispute. The board shall consist of one person selected by the district from which the territory is withdrawn, one person selected by the district of which it has become a part, and a third person appointed by the county superintendent of schools of the county in which the districts are located. The districts involved may mutually agree that the person appointed as arbitrator by the county superintendent of schools may act as sole arbitrator of the matters to be submitted to arbitration. The necessary expenses and compensation of the arbitrators shall be divided equally between the districts, and the payment of the portion of the expenses is a legal charge against the funds of the school districts. The arbitrator or arbitrators shall make a written finding on the matter submitted to arbitration. The written finding and determination of a majority of the board of arbitrators is final and binding upon the school districts submitting the question

to the board of arbitration.

35566. Notwithstanding any provisions of this article, exchanges of property tax revenues between school districts as a result of reorganization shall be determined pursuant to subdivision (h) of Section 99 of the Revenue and Taxation Code.

#### Article 8. Bonded Indebtedness of School Districts

35570. The provisions of this article shall apply only to the reallocation of bonded indebtedness incurred prior to July 1, 1978.

35571. When a school district is created, annexed, or abolished, or the boundaries thereof changed, the liability to taxation for the outstanding bonded indebtedness of the district or the territory affected thereby is as provided in this article. The authorities whose duty it is to levy taxes for the payment of principal and interest on the outstanding bonds shall levy the taxes upon the districts affected in such proportions as are provided in, or are determined under, the authority of this article.

35572. No territory shall be taken from any school district having any outstanding bonded indebtedness and made a part of another district where the action, if taken, would so reduce the last equalized assessed valuation of a district from which the territory was taken that the outstanding bonded indebtedness of the district would exceed 5 percent of the assessed valuation remaining in the district for each level maintained, on the date the reorganization is effective pursuant to Section 35766.

35573. When any school district is in any manner merged with one or more school districts so as to form a single district by any procedure, the district so formed is liable for all of the outstanding bonded indebtedness of the districts united or merged.

35574. Notwithstanding any other provision of this code, for the purposes of applying the State School Building Aid Law of 1952, Chapter 8 (commencing with Section 16000) of Part 10, the amount of outstanding bonded indebtedness, exclusive of interest, of the divided districts which is equal to the liability incurred by the acquiring district pursuant to Section 35576 shall be considered a liability of the acquiring district for purposes of computing bonding capacity of the district.

35575. When territory is taken from one school district and annexed to another school district and the area transferred contains no public school property or buildings, the territory shall drop any liability for outstanding bonded indebtedness in the district of which it was formerly a part and shall automatically assume its proportionate share of the outstanding bonded indebtedness of the district of which it becomes a part.

35576. (a) When territory is taken from one district and annexed to, or included in, another district or a new district by any procedure and the area transferred contains public school buildings or property, the district to which the territory is annexed shall take possession of

the building and equipment on the day when the annexation becomes effective for all purposes. The territory transferred shall cease to be liable for the bonded indebtedness of the district of which it was formerly a part and shall automatically assume its proportionate share of the outstanding bonded indebtedness of any district of which it becomes a part.

(b) The acquiring district shall pay the original district the greatest of the amounts determined under provisions of paragraphs (1) or (2) or the amount determined pursuant to a method prescribed under Section 35738.

(1) The proportionate share of the outstanding bonded indebtedness of the original district, which proportionate share shall be in the ratio which the total assessed valuation of the transferring territory bears to the total assessed valuation of the original district in the year immediately preceding the date on which the annexation is effective for all purposes. This ratio shall be used each year until the bonded indebtedness for which the acquiring district is liable has been repaid.

(2) That portion of the outstanding bonded indebtedness of the original district which was incurred for the acquisition or improvement of school lots or buildings, or fixtures located therein, and situated in the territory transferred.

(c) The county board of supervisors shall compute for the reorganized district an annual tax rate for bond interest and redemption which will include the bond interest and redemption on the outstanding bonded indebtedness specified in paragraph (1) or (2) of subdivision (b) or the amount determined pursuant to a method prescribed under Section 35738. The county board of supervisors shall also compute tax rates for the annual charge and use charge prescribed by former Sections 1822.2 and 1825 as they read on July 1, 1970 when such charges were established prior to November 23, 1970. All such tax rates shall be levied in excess of any other ad valorem property tax authorized or required by law and shall not be included in the computation of the limitation specified in subdivision (a) of Section 1 of Article XIII A of the California Constitution.

35577. Whenever an existing school district having authorized but unsold bonds is completely divided between two or more districts so that the existing district ceases to exist, pursuant to any provision of this chapter, the board of supervisors shall, prior to the date the action is effective for the purposes of Section 35534, make and enter an order in the minutes of its proceedings that the authorization to issue the unsold bonds be divided between the districts in the ratio which the assessed valuation of the territory transferred to the districts bears to the total assessed valuation of the former district. Such bonds, if issued by any new district, shall be considered a liability of the new district for purposes of computing the bonding capacity of the new district when applying the State Building Aid Law of 1962, Chapter 8 (commencing with Section 16000) of Part 10.

35578. Any unsold bonds of an elementary, high, or unified school district which is included as a whole in a new school district through any kind of reorganization may be issued by the board of supervisors in the name of the new district and the proceeds derived upon the sale thereof shall be the funds of the new district. However, the proceeds derived upon the sale thereof shall be expended only for the purpose, or purposes, for which such bonds were authorized.

35579. Any unsold bonds of an elementary, high, or unified school district which is included as a whole in a new school district through any kind of reorganization, if issued by the board of supervisors in the names of the old districts, shall be considered a liability of the new district for purposes of computing the bonding capacity of the new district when applying the State School Building Aid Law of 1952, Chapter 8 (commencing with Section 16000) of Part 10.

SEC. 3. Chapter 4 (commencing with Section 35700) is added to Part 21 of the Education Code, to read:

#### CHAPTER 4. REORGANIZATION OF SCHOOL DISTRICTS

##### Article 1. Reorganization of School Districts by the Electorate

35700. An action to reorganize one or more districts is initiated upon the filing, with the county superintendent of schools, of a petition to reorganize one or more school districts signed by any of the following:

(a) At least 25 percent of the registered voters residing in the territory proposed to be reorganized if such territory is inhabited. Where the petition is to reorganize territory in two or more school districts, the petition shall be signed by at least 25 percent of the registered voters in such territory in each such district.

(b) The owner of the property, provided such territory is uninhabited and the owner thereof has filed a tentative subdivision map with the appropriate county or city agency.

(c) A majority of the members of the governing boards of each of the districts which would be affected by the proposed reorganization.

35701. In any petition to reorganize school districts there shall be designated no more than three of the petitioners as chief petitioners for the purpose of receiving notice of any public hearings to be held on the petition.

35702. The persons securing the signatures to a petition of electors to reorganize school districts shall attach thereto an affidavit that all persons who signed the petition did so in the presence of the affiant and that each signature is a genuine signature of the person whose name it purports to be.

35703. Any petition filed under this article may include any of the appropriate provisions specified in Article 3 (commencing with Section 35730).

35704. The county superintendent of schools, within 20 days after

the petition for reorganization is filed, shall examine the petition and, if he or she finds it to be sufficient and signed as required by law, transmit the petition simultaneously to the county committee and to the State Board of Education.

35705. Within 60 days after receipt of the petition, the county committee shall hold one or more public hearings thereon at a regular or special meeting in each of the districts affected by the petition. Notice of the public hearing shall be given at least 10 days in advance thereof to not more than three persons designated in the petition as the chief petitioners, to the governing board of all districts affected by the proposed reorganization, and to all other persons requesting notice of the hearing.

35705.5. (a) The county committee may add to the petition any of the appropriate provisions specified in Article 3 (commencing with Section 35730) which were not included in the petition as filed and may amend any such provision which was so included.

(b) At least 10 days before the public hearing, or hearings, on the petition, the county committee shall make available to the public and to the governing boards affected by the petition a description of the petition, including all of the following:

(1) The rights of the employees in the affected districts to continued employment.

(2) The revenue limit per unit of average daily attendance for each affected district and the effect of the petition, if approved, on such revenue limit.

(3) Whether the districts involved will be governed, in part, by provisions of a city charter and, if so, in what way.

(4) Whether the governing boards of any proposed new district will have five or seven members.

(5) A description of the territory or districts in which the election, if any, will be held.

(6) Where the proposal is to create two or more districts, whether the proposal will be voted on as a single proposition.

(7) Whether the governing board of any new district will have trustee areas and, if so, whether the trustees will be elected by only the voters of that trustee area or by the voters of the entire district.

(8) A description of how the property, obligations, and bonded indebtedness of existing districts will be divided.

(9) A description of when the first governing board of any new district will be elected and how the terms of office for each new trustee will be determined.

35706. Within 90 days after affording the public an opportunity to comment on the petition, including any plans and recommendations included therein, the county committee shall recommend approval or disapproval of the petition as it may be augmented.

35707. Except as provided in Sections 35709 and 35710, the county committee shall forthwith transmit the petition to the State Board of Education together with its recommendations thereon. It shall also

report whether any of the following, in the opinion of the committee, would be true regarding the proposed reorganization as described in the petition:

(1) It would adversely affect the school district organization of the county.

(2) It would be compatible with any master plans submitted by the county committee and approved by the State Board of Education.

(3) It would comply with the provisions of Section 35753.

35708. The petition transmitted pursuant to Section 35707, including the plans and recommendations included therein, if any, together with the recommended approval or disapproval and the plans and recommendations, if any, of the county committee shall be heard by the State Board of Education as provided in Article 4 (commencing with Section 35750).

35709. If the county committee approves the petition, it shall order that the petition be granted, and shall so notify the county board of supervisors if either of the following conditions are met:

(a) The petition is to transfer uninhabited territory from one district to another and the owner of the territory, or a majority of the owners of the territory, and the governing boards of all school districts involved in the transfer consent to the transfer; or

(b) The petition is to transfer inhabited territory of less than 5 percent of the assessed valuation of the district from which the territory is being transferred, and both of the following conditions are satisfied:

(1) All of the governing boards have consented to the transfer.

(2) The county committee finds that the transfer will not affect the racial or ethnic integration of the districts affected.

35710. (a) If the county committee approves the petition, it shall so notify the county superintendent of schools who shall call an election in the manner described in Part 4 (commencing with Section 5000) to be conducted at the next regular election in the territory to be transferred when the petition is to transfer inhabited territory of 5 percent or more of the assessed valuation of the district from which the territory is being transferred and both of the following conditions are met:

(1) All of the governing boards have consented to the transfer.

(2) The county committee finds that the transfer will not affect the racial or ethnic integration of the districts affected.

35711. Any person questioning the finding of the county committee pursuant to Section 35709 or 35710 that the proposed transfer of territory will not adversely affect the racial or ethnic integration of the schools of the districts affected, may appeal a decision made upon such a finding. The appeal shall be made to the State Board of Education within 30 days. The appeal shall be based upon factual and statistical evidence.

If the State Board of Education denies the appeal, the decision of the county committee shall stand. If the State Board of Education

approves the appeal, it shall review the findings of the county committee at a regular meeting of the board.

The State Board of Education shall notify the county committee on its decision on the appeal. If the State Board of Education approves the appeal, the county committee shall transmit a copy of the proceedings to the State Board of Education within 30 days after receipt of notice. The State Board of Education shall review the transcript, considering all factors involved. The State Board of Education may reverse, or may affirm, the decision of the county committee, or if it appears that inadequate consideration was given to the effect of the transfer on integration of the schools of the districts affected, it shall direct the county committee to reconsider its decision and for this purpose to hold another hearing.

## Article 2. County Committee on School District Organization Plans and Recommendations for District Reorganization

35720. Each county committee on school district organization shall, under the direction of the State Board of Education, formulate plans and recommendations for the organization of the districts in the county or any portion thereof including, if appropriate, a portion of one or more adjacent counties.

35720.5. (a) The county committee shall adopt a tentative recommendation following which action it shall hold one or more public hearings in the area proposed for reorganization at least 30 days prior to submission of a final recommendation for unification or other reorganization to the State Board of Education.

(b) The public hearing required by this section shall be called when both of the following conditions are met:

(1) Notice is sent to the governing board of each school district involved at least 10 days prior to the hearing.

(2) Notice of the hearing is posted as provided in Section 5362 or notice of the hearing is published as provided in Section 5363.

(c) The notice shall contain information as to the time, place, and purpose of the hearing.

35721. (a) On receipt of a petition signed by at least 10 percent of the qualified electors residing in any district for a consideration of unification or other reorganization of any area, the county committee shall hold a public hearing thereon at a regular or special meeting.

(b) Following such hearing, the county committee shall grant or deny the petition. If the county committee grants the petition, it shall adopt a tentative recommendation following which action it shall hold one or more public hearings in the area proposed for reorganization. The provisions of Sections 35705 and 35705.5 shall apply to any such public hearing.

35722. Following the public hearing, or last public hearing, required by Section 35720 or subdivision (b) of Section 35721, the county committee may adopt a final recommendation for unification

or other reorganization and shall transmit any such recommendation together with the petition filed under subdivision (a) of Section 35721, if any, to the State Board of Education for hearing as provided in Article 4 (commencing with Section 35750); or shall order the reorganization granted if the requirements of Section 35709 are satisfied; or shall order that an election be held if the requirements of Section 35710 are satisfied.

35723. When a county committee selects an area for study for possible recommendation for reorganization which includes territory of one or more school districts under the jurisdiction of the county superintendent of schools of another county, the county committee shall so notify the members of the county committee of such other county. Thereafter, the members of the county committee of such other county shall be notified by mail of each public hearing or meeting of the county committee at which the proposed reorganization will be considered at least 10 days prior to the day of such hearing or meeting.

35724. If plans and recommendations adopted by a county committee propose changes in the boundaries or status of school districts under the jurisdiction of the superintendent of any adjacent county, the county committee of each such adjacent county shall be requested in writing to concur in the plans and recommendations.

If the county committee of an adjacent county concurs in the plans and recommendations, the concurrence shall accompany the recommendations transmitted to the State Board of Education.

If the county committee of an adjacent county fails to respond to the request for concurrence within 90 days of the date of the request, such failure shall be deemed to be a concurrence in the plans and recommendations.

If a county committee of an adjacent county does not concur in the plans and recommendations, it shall so notify the other county committee in writing and accompany the notification with plans and recommendations for the reorganization of school districts of its county including territory that would be affected by the plans and recommendations of the other county committee. After 60 days from the notification of nonconcurrence, if the county committees are still unable to agree upon plans and recommendations for reorganization of the territory, the county committees, or any of them, may submit plans and recommendations to the State Board of Education, and the board may approve or reject the plans, or any of them, in the same manner as other plans and recommendations.

### Article 3. Contents of Plans and Recommendations

35730. The plans and recommendations, in connection with the proposed formation of a new unified school district to include within its boundaries a chartered city, may provide that the establishment and existence of the governing board of the district shall be governed by the charter of the city and not exclusively by general law. Upon

adoption of plans and recommendations containing such provision, the establishment and existence of the governing board of the district shall thenceforth be governed exclusively by the city charter and the board shall be a city board of education of a chartered city. In the absence of such a recommendation, the proposed new unified district shall be governed by general law.

35731. In any proposal for unification, plans and recommendations may include a provision for a governing board of seven members. In the absence of such a provision, any proposed new district shall have a governing board of five members.

35732. Plans and recommendations may include a provision specifying the territory in which the election to reorganize the school districts will be held. In the absence of such a provision, the election shall be held only in the territory proposed for reorganization.

35733. Whenever the recommendation is to divide the entire territory of an existing school district into two or more separate school districts, the recommendation may provide that the plans and recommendations be voted upon as a single proposition.

35734. The plans and recommendations may include a provision for trustee areas which provide for representation in accordance with population and geographic factors of the entire area of the district. Any such provision shall also specify the boundaries of the proposed trustee areas and shall specify whether members of the governing board shall be elected by the registered voters of the entire school district or by only the registered voters of that particular trustee area. A proposal for trustee areas shall be considered as an inherent part of the proposal and not as a separate proposition.

In the absence of a provision for trustee areas, the proposed new district shall have a governing board of five members elected by the registered voters of the entire district.

35735. Any proposal for reorganization of school districts shall include a computation of the revenue limit per unit of average daily attendance for the proposed new district. Such provision shall be an inherent part of the proposal and shall not be construed as a separate proposition. If the reorganization is approved by the registered voters of the area, such revenue limit per unit of average daily attendance shall be the maximum revenue limit per unit of average daily attendance for the type of new district formed until changed by Section 42238. Such revenue limit per unit of average daily attendance shall not be less than the revenue limit which would be produced if (1) for the year prior to the fiscal year in which the reorganization becomes effective for all purposes, the sum of the revenue limit of each of the districts proposed to be wholly included and the proportional share of the revenue limit of each district to be partially included in the proposed reorganized district is divided by the total number of units of average daily attendance that would have been in the proposed reorganized district had it been

reorganized the year prior to the fiscal year in which the reorganization becomes effective for all programs plus, (2) the revenue limits per unit of average daily attendance required to equal the amount of the difference between the average certificated and the average classified salary and fringe benefits of each of the component districts or any portion of a district during the school year prior to that in which the district becomes effective for all purposes and the highest average certificated and highest average classified salary and fringe benefits of any component district included in the proposal multiplied by the number of employees in each category less the number of employees in each category of the district having the highest average salaries.

In computing the increase in the revenue limit in clause (2), any school district or, a portion of a district to be included in a proposal may be considered in determining the highest average salary or fringe benefits provided that such school district, or a portion of a district, contains at least 10 percent of the total number of certificated and classified employees in the proposed reorganized district, plus (3), the estimated adjustment to the revenue limit per unit of average daily attendance pursuant to Section 42238 that the proposed reorganized district would be allowed had it been reorganized the year prior to the fiscal year in which the reorganization becomes effective for all purposes.

35736. Plans and recommendations may include a proposal for dividing the property, other than real property, and obligations of any school district proposed to be divided between two or more school districts, or proposed to be partially included in one or more school districts. As used in this section, "property" includes funds, cash on hand, and moneys due but uncollected on the date reorganization becomes effective for all purposes, and state apportionments based on average daily attendance earned in the year immediately preceding the date reorganization becomes effective for all purposes. In providing for this division, the plans and recommendations may consider the assessed valuation of each portion of the district, the revenue limit per pupil in each district, the number of children of school age residing in each portion of the district, the value and location of the school property, and such other matters as may be deemed pertinent and equitable. Any such proposal shall be an integral part of the proposal and not a separate proposition.

35737. Plans and recommendations may include a provision specifying that the election for the first governing board will be held at the same time as the election on the reorganization of the school districts. If such a provision is included, it shall specify the method whereby the length of the initial terms may be determined so that the governing board will ultimately have staggered terms which expire in years with regular election dates. In the absence of such a provision, the election of the first governing board will take place on the first regular election following the passage of the reorganization

proposal.

35738. Plans and recommendations may include a method of dividing the bonded indebtedness other than the method specified in paragraphs (1) and (2) of subdivision (b) of Section 35576 for the purpose of providing greater equity in the division. Consideration may be given to assess valuation, number of pupils, property values, and other matters which the petitioners or county committee deems pertinent.

#### Article 4. Approval and Adoption of Plans and Recommendations

35750. The State Board of Education shall establish minimum standards which it shall apply in approving or disapproving petitions and proposals for the formation or reorganization of school districts.

35751. When it is necessary for the State Board of Education to consider petitions submitted under this chapter and prepare a proposal relating to such a petition, each county superintendent of schools and every other county officer in the counties affected, and the district superintendent of the school districts affected shall provide the statistical information required by the Department of Education to complete the study.

35752. When a petition for reorganization of a district is received in the office of the secretary of the State Board of Education, the secretary shall set the petition for hearing at a regular or special meeting of the board. At least 30 days prior to the date of the hearing, he or she shall send by registered mail a notice containing a general statement of the purpose of the petition and the time and place of the hearing to each of the following persons or agencies:

(a) The governing board and district superintendent of each school district whose boundaries would be affected.

(b) The county superintendent and county committee of each county which has jurisdiction over any of the districts whose boundaries would be affected.

(c) The persons designated in the petition as "chief petitioners."

35753. (a) The State Board of Education may approve proposals for the reorganization of districts, if the board has determined, with respect to the proposal and the resulting districts, that all of the following conditions are substantially met:

(1) That the new districts will be adequate in terms of number of pupils enrolled.

(2) That the districts are each organized on the basis of a substantial community identity.

(3) That the proposal will result in an equitable division of property and facilities of the original district or districts.

(4) That the reorganization of the districts will not promote racial or ethnic discrimination or segregation.

(5) The proposed reorganization will not result in any substantial increase in costs to the state.

(6) The proposed reorganization will not significantly disrupt the educational program of districts not included in the proposal.

(7) Such other criteria as the board may, by regulation, prescribe.

(b) The State Board of Education may approve a proposal for the reorganization of school districts if the board determines that it is not practical or possible to apply the criteria of this section literally, and that the circumstances with respect to the proposals provide an exceptional situation sufficient to justify approval of the proposals.

35754. After affording interested persons an opportunity to present their views on the petition and after hearing any findings and recommendations of the State Superintendent of Public Instruction, the State Board of Education shall approve or disapprove the formation of the proposed new district. If the board approves the formation, it may amend or include in the proposal any of the appropriate provisions of Article 3 (commencing with Section 35730).

35755. After the State Board of Education has approved the plans and recommendations for the unification or other reorganization of the school districts in any area, the secretary of the State Board of Education shall give notice of the approval to the county superintendent of schools having jurisdiction over any of the districts whose boundaries or status would be affected by the reorganization as proposed.

35756. The county superintendent of schools, within 20 days after receiving the notification provided by Section 35755, shall call an election, in the manner prescribed in Part 4 (commencing with Section 5000), to be conducted at the next available regular election, in the territory of districts as determined by the State Board of Education.

35757. The county superintendent of schools shall prepare a statement of official information and statistics relating to the proposed reorganization which shall include, but is not limited to, the plans and recommendations, the revenue limit per pupil, the rate of growth, the expected enrollment, and the support from the state which can be expected if such area maintains an adequate school program. Such statistics shall be based upon the school year last completed before the date of the election.

35758. The county superintendent of schools calling the election shall cause to be prepared and distributed a statement setting forth arguments for and against the recommendations. The argument shall not exceed 500 words. The argument in favor of the recommendation shall be prepared by the president of the county board or by a proponent of the recommendations designated by the president. The arguments against the recommendations shall be prepared by a member of the county board who voted against the recommendations, or, if there be none, by an elector designated by the county superintendent of schools who has appeared before the board or at a public hearing in opposition to the recommendation.

35759. The cost of preparation and distribution of the statement

setting forth the arguments in favor of, and those opposed to, the recommendations of the county board, and the cost of any election held pursuant to this article shall be a charge against the general fund of the county. If such district is situated in more than one county, the cost of the election shall be prorated against each county in the same proportion as the assessed valuation of the territory of the proposed new district lying in such county bears to the total assessed valuation of the proposed new districts.

35760. (a) Any circular, pamphlet, letter, poster, or other campaign literature which is designed to promote either the passage or defeat of a ballot measure proposing the reorganization of school districts shall bear on its face, in a conspicuous place, either of the following:

(1) The names and residence addresses of the chairmen and secretary, or the names and residence addresses of at least two officers of the organization issuing it, if issued by an organization.

(2) The name and residence address, with the street and number, if any, of any individual responsible for it, if issued by an individual or individuals.

(b) If any person eligible to vote upon such ballot measure has reason to believe that such campaign literature contains false and misleading statements, he or she may bring an action in the superior court for injunctive relief against further circulation of the literature, and if the court finds that the literature does, in fact, contain false and misleading statements, it may enjoin any further circulation of the literature.

35761. Every qualified elector residing within the territory in which the election is called shall be eligible to vote at such election.

35762. The words to appear upon the ballots used for voting upon the adoption or rejection of the proposals for the reorganization of school districts shall be "Reorganization of school districts—Yes," and "Reorganization of school districts—No," or words of similar import. If the plans and recommendations include a proposal for trustee areas in accordance with Section 35734, such proposal shall be considered a part of the reorganization proposition to be voted upon, and the ballot shall include wording to that effect.

35763. Upon the completion of the canvass of the election returns and the absentee ballots, the county superintendent of schools shall tabulate such returns and the absentee ballots, and notify the Superintendent of Public Instruction, the board of supervisors and the governing board of each affected school district of the number of votes cast for, and the number of votes cast against, the reorganization of school districts in each school district and also the total number of votes cast for, and the total number of votes cast against, the reorganization of school districts.

35764. When a majority of all the votes cast are cast in favor of the reorganization or other proposal, the proposal carries.

35765. After the board of supervisors receives a proper certificate of election or other proper evidence that an action to organize or reorganize school districts has been approved as provided by law, the board of supervisors shall make an order to create, change, or

terminate school districts as may be required by the action and establish or reestablish the boundaries of the districts affected by the action. The order shall be entered in the county's record of school districts.

If the action results in the creation of a district or a change of district boundaries of the type described in Section 54900 of the Government Code, the order of the board of supervisors shall include the legal description of each district created or changed in the action and, immediately after making the order, the board of supervisors shall cause a copy of the order and a map or plat indicating the boundaries established or reestablished for each district affected by the order to be filed as required by Chapter 8 (commencing with Section 54900) of Part 1 of Division 2, Title 5 of the Government Code.

35766. After the expiration of one year from the date of the order, the order shall be conclusive evidence that the school district has been legally organized, or the boundaries legally changed, as the case may be, and no suit shall be maintained which questions the validity of the organization or change of boundaries.

#### Article 5. Lapsation

35780. Any school district which has been organized for more than three years shall be lapsed as provided in this article if the number of registered electors in the district is less than six or if the average daily attendance of pupils in the school or schools maintained by the district is less than six in grades 1 through 8 or is less than 11 in grades 9 through 12, except that for any unified district which has established and continues to operate at least one senior high school, the board of supervisors shall defer the lapsation of the district for one year upon a written request of the governing board of the district and written concurrence of the county committee. The board of supervisors shall make no more than three such deferments.

35781. The attendance of pupils residing in a unified district in high schools in an adjoining state pursuant to Section 44618 or Article 1 (commencing with Section 2000) of Chapter 7 of Part 2, shall be deemed for the purposes of this article to be in high schools established and maintained by the unified district.

35782. Within 30 days after the close of each school year, the county committee shall conduct a public hearing on the issues specified in Section 35780. Notice of the public hearing shall be given at least 10 days in advance thereof to each member of the governing board of the lapsed district immediately prior to its lapsation, to each of the governing boards which adjoin the lapsed district, and to the high school district of which the lapsed elementary district is a component.

35783. After the hearing, the county committee shall order the territory annexed to one or more adjoining districts as seems to the county committee to be in the best interest of the adjoining districts and the residents of the lapsed district.

35784. If the county committee orders the territory of a lapsed district annexed to more than one adjoining district, it may provide for such a division of the funds, property, and obligations of the lapsed district as it deems most equitable in the circumstances. If no division is provided for by the committee, the general provisions of Article 7 (commencing with Section 35560) of Chapter 3 shall apply to the division of funds, property, and obligations of the lapsed district.

35785. Following the order of the county committee, the county superintendent of schools shall give notice of the board action to the county board of supervisors and to the State Board of Education.

SEC. 3.5. Section 37000.5 is added to the Education Code, to read:

37000.5. Notwithstanding any other provision of law, an elementary school district with an average daily attendance of less than 901 may provide educational services to students in grades 6 to 8, inclusive, at a school site outside the boundaries of the elementary school district pursuant to a joint operating agreement, provided such school is located within six miles of the boundary of such elementary school district.

SEC. 4. Article 6 (commencing with Section 39420) of Chapter 3 of Part 23 of the Education Code is repealed.

SEC. 5. Section 44902 of the Education Code is repealed

SEC. 5.5. Section 44955 of the Education Code is amended to read:

44955. No permanent employee shall be deprived of his or her position for causes other than those specified in Sections 44892, 44907, and 44923, and Sections 44932 to 44947, inclusive, and no probationary employee shall be deprived of his or her position for cause other than as specified in Sections 44948 to 44949, inclusive.

Whenever in any school year the average daily attendance in all of the schools of a district for the first six months in which school is in session shall have declined below the corresponding period of either of the previous two school years, whenever the governing board determines that attendance in a district will decline in the following year as a result of the termination of an interdistrict tuition agreement as defined in Section 46304, or whenever a particular kind of service is to be reduced or discontinued not later than the beginning of the following school year, and when in the opinion of the governing board of said district it shall have become necessary by reason of either of such conditions to decrease the number of permanent employees in said district, the said governing board may terminate the services of not more than a corresponding percentage of the certificated employees of said district, permanent as well as probationary, at the close of the school year; provided, that the services of no permanent employee may be terminated under the provisions of this section while any probationary employee, or any other employee with less seniority, is retained to render a service which said permanent employee is certificated and competent to render.

In computing a decline in average daily attendance for purposes of this section for a newly formed or reorganized school district, each

school of the district shall be deemed to have been a school of the newly formed or reorganized district for both of the two previous school years.

As between employees who first rendered paid service to the district on the same date, the governing board shall determine the order of termination solely on the basis of needs of the district and the students thereof. Upon the request of any employee whose order of termination is so determined, the governing board shall furnish in writing no later than five days prior to the commencement of the hearing held in accordance with Section 44949, a statement of the specific criteria used in determining the order of termination and the application of the criteria in ranking each employee relative to the other employees in the group. This requirement that the governing board provide, on request, a written statement of reasons for determining the order of termination shall not be interpreted to give affected employees any legal right or interest that would not exist without such a requirement.

Notice of such termination of services either for a reduction in attendance or reduction or discontinuance of a particular kind of service to take effect not later than the beginning of the following school year, shall be given before the 15th of May in the manner prescribed in Section 44949, and services of such employees shall be terminated in the inverse of the order in which they were employed, as determined by the board in accordance with the provisions of Sections 44844 and 44845. In the event that a permanent or probationary employee is not given the notices and a right to a hearing as provided for in Section 44949, he or she shall be deemed reemployed for the ensuing school year.

The governing board shall make assignments and reassignments in such a manner that employees shall be retained to render any service which their seniority and qualifications entitle them to render.

SEC. 6. Section 45118 of the Education Code is repealed.

SEC. 7. No right or obligation arising out of any provision of law repealed by this act shall be abolished or impaired by the provisions of this act.

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.

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## CHAPTER 1193

An act to amend Sections 10559, 12201, 12303.7, 13920, 13921, and 13922 of, and to add Chapter 2.1 (commencing with Section 10620) to Part 2 of Division 9 of, and to add and repeal Section 11406 of, the

Welfare and Institutions Code, and to amend Section 33 of Chapter 292 of the Statutes of 1978, relating to public social services.

[Approved by Governor September 27, 1980. Filed with Secretary of State September 29, 1980 ]

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

SECTION 1. Section 10559 of the Welfare and Institutions Code is amended to read:

10559. There are in the department a division or office devoted to carrying out the provisions of this division pertaining to the services to the blind and another division or office devoted to carrying out the public social services to deaf and hearing impaired persons. The divisions or offices shall each be headed by a chief, one who is a trained social worker experienced in work for the blind, the other a trained social worker or counselor experienced in work for the deaf and hearing impaired or a person experienced in administering a deaf or hearing impaired services program. The duties of the division for the blind and its chief shall be confined to carrying out the provisions of this division pertaining to services to the blind. The duties of the division or office for the deaf and hearing impaired shall be confined to carrying out the provision of public social services to the deaf and hearing impaired. Blindness, deafness, or hearing impairment shall not be grounds to disqualify a person from holding the position of chief of the office or division. The divisions or offices shall not be made a part of any other division, office, or subdivision of the department. The chiefs of the divisions or offices shall be directly responsible to the director.

The director through the divisions or offices may provide consultative services to county personnel administering services to the blind, deaf, or hearing impaired which shall include, but not be limited to, information concerning the various aspects of blindness, deafness, and hearing impairment and its problems and implications, the rehabilitative potential of the blind, deaf and hearing impaired, public and private services available, employment opportunities for blind, deaf, and hearing impaired persons, and concepts in counseling blind, deaf, and hearing impaired persons.

SEC. 2. Chapter 2.1 (commencing with Section 10620) is added to Part 2 of Division 9 of the Welfare and Institutions Code, to read:

#### CHAPTER 2.1. PUBLIC SOCIAL SERVICES FOR DEAF PERSONS

10620. The Legislature finds that over 1.5 million persons in California are deaf or suffer from significant hearing impairment. Basic governmental services are not routinely adapted to meet the communication needs of deaf and hearing impaired persons and, therefore, the services they receive may be less than those provided to other persons because of the overwhelming communication problems which exist between service agencies and deaf and hearing impaired persons.

10621. Public social services for the deaf and hearing impaired shall include, but not be limited to, the following services:

(a) Complete communication services through interpreter services by a professional interpreter for the deaf possessing the comprehensive skills certification of the National Registry of Interpreters for the Deaf or the equivalent, teletypewriter relay, and, when necessary, training in communication skills.

(b) Advocacy to assure deaf and hearing impaired persons receive equal access to public and private services.

(c) Job development and job placement.

(d) Information and referral.

(e) Counseling, including peer counseling.

(f) Independent living skills instruction.

(g) Community education about deafness and hearing impairment.

10622. Public social services for the deaf and hearing impaired shall be available in at least three regions throughout the state so that deaf and hearing impaired persons will be able to secure public social services within a reasonable commuting distance. Deaf and hearing impaired persons, residing in urban, suburban, and rural areas, shall be served.

10623. Public agencies or private nonprofit corporations or a combination thereof in a region may provide the public social services listed in Section 10621 directly or through agreements with other public agencies or private nonprofit corporations.

10624. The department, with the advice of persons knowledgeable about the provision of public social services to deaf and hearing impaired persons, shall establish the criteria for funding public social services for the deaf and hearing impaired.

The criteria shall include, but shall not be limited to, demonstrated need for services, ability to provide services in a deaf or hearing impaired person's preferred mode of communication, ability to secure community support, including written endorsements of local officials and organizations, including organizations of and for the deaf and hearing impaired, and funding from one or more public or private sources. Special consideration shall be given to the extent to which deaf and hearing impaired persons are included in the agency's staff and in the case of a private nonprofit corporation on the board of directors.

10625. The department shall:

(a) Determine the number and location of regions of the state providing public social services.

(b) Coordinate the provision of services with the Department of Rehabilitation.

(c) Establish uniform accounting procedures and contracts for use with regard to this chapter.

(d) Promulgate requests for proposals and conduct bidders' conferences.

(e) Establish by regulation the definitions of deafness and significant hearing impairment.

(f) Conduct a management or fiscal audit of any contract whenever it is necessary for proper supervision of a contract.

10626. The department shall contract with public agencies or private nonprofit corporations for a period not to exceed one year. At the end of each contract year, the department may renegotiate the terms of the contract in accordance with allowable increase or decrease in the agency or corporation costs and their demonstrated ability to provide the specified services. The private nonprofit agency must submit a complete financial statement by a certified public accountant prior to a renewal of a contract.

10627. The department shall evaluate the provision of public social services and report to the Legislature on their effectiveness by January 1, 1982. The report shall include, at least, the following:

- (1) The number of services provided.
- (2) The number of persons receiving services.
- (3) A description of the services provided.
- (4) The cost of the services provided.
- (5) The number of persons placed in jobs.
- (6) The number of persons receiving independent living skills training.
- (7) The number of persons receiving other services due to referral and advocacy.
- (8) The number and qualifications of staff providing the above services.
- (9) The impact of public social services on a representative sample of recipients of services.
- (10) Recommendations for legislative and administrative changes.

10628. The Legislative Analyst shall:

(a) Evaluate the contract agencies provision of public social services to the deaf and hearing impaired persons. The evaluation shall include an analysis of the effectiveness of the services provided in Section 10621 and the cost of services.

(b) Review the department's supervision of the contract agencies.

(c) Recommend legislative and administrative changes.

The Legislative Analyst shall submit the report to the Legislature by March 15, 1982, and a report on March 15, 1983, which describes the implementation of the legislative and administrative recommendations contained in the prior year's report.

10629. The State Department of Social Services shall not expend over 5 percent of the sum appropriated for this chapter for the administrative costs of this chapter.

SEC. 3. Section 11406 is added to the Welfare and Institutions Code, to read:

11406. (a) The department shall implement, by July 1, 1981, an Emergency Assistance for Needy Families With Children Program, under Section 406(e)(1) of the Social Security Act, in order to prevent the need for out-of-home placement by providing services as specified in Chapter 5 (commencing with Section 16500) of Part 4 of Division 9 of the Welfare and Institutions Code, and to provide short-term emergency out-of-home care through the foster care

programs as specified in Article 5 (commencing with Section 11400) of Chapter 2 of Part 3 of Division 9 of the Welfare and Institutions Code.

(b) The department shall submit, by April 1, 1981, to the appropriate policy and fiscal committees of the Legislature, a report on implementing the program described in subdivision (a), which report shall contain the following recommendations:

(1) The eligibility conditions to be imposed, and the types and amounts of emergency assistance payments to be provided to, or on behalf of, needy families with children or a needy child.

(2) The types of emergencies or unusual crisis situations to be covered.

(3) The services which are to be provided to such needy families with children or needy children eligible for emergency assistance.

(c) The provisions of this section shall only be implemented if federal funds necessary for their implementation are available.

SEC. 4. Section 12201 of the Welfare and Institutions Code, as added by Chapter 511 of the Statutes of 1980, is amended to read:

12201. The payment schedules to go into effect July 1, 1981, and on July 1 of each year thereafter, shall be the amounts set forth in Section 12200, as adjusted to reflect any increases or decreases in the cost of living occurring after December 1, 1979. The cost-of-living adjustment shall be based on the changes in the California Necessities Index, which as used in this section shall be the weighted average of changes for food, clothing, fuel, utilities, rent, and transportation for low-income consumers. The computation of annual adjustments in the California Necessities Index shall be made in accordance with the following steps:

(a) The base period expenditure amounts for each expenditure category within the California Necessity Index used to compute the annual grant adjustment are:

Food .....	\$1,832
Clothing (apparel and upkeep) .....	298
Fuel and other utilities .....	264
Rent, residential .....	2,303
Transportation .....	1,026
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Total .....	\$5,723

(b) Based on the appropriate components of the Consumer Price Index for All Urban Consumers, as published by the United States Department of Labor, Bureau of Labor Statistics, the percentage change shall be determined for the twelve-month period ending with the December preceding the year for which the cost-of-living adjustment will take effect, for each expenditure category specified in subdivision (a) within the following geographical areas: Los Angeles-Long Beach-Anaheim, San Francisco-Oakland, San Diego, and, to the extent statistically valid information is available from the Bureau of Labor Statistics, additional geographical areas within the

state which include not less than 80 percent of recipients of aid under this chapter.

(c) Calculate a weighted percentage change for each of the expenditure categories specified in subdivision (a) using the applicable weighting factors for each area used by the State Department of Industrial Relations to calculate the California Consumer Price Index (CCPI).

(d) Calculate a category adjustment factor for each expenditure category in subdivision (a) by (1) adding one hundred (100) to the applicable weighted percentage change as determined in subdivision (b) and (2) dividing the sum by one hundred (100).

(e) Determine the expenditure amounts for the current year by multiplying each expenditure amount determined for the prior year by the applicable category adjustment factor determined in subdivision (d).

(f) Determine the overall adjustment factor by dividing (1) the sum of the expenditure amounts as determined in subdivision (d) for the current year by (2) the sum of the expenditure amounts as determined in subdivision (d) for the prior year.

The overall adjustment factor determined by the preceding computational steps shall be multiplied by the payment schedules established pursuant to Section 12200 as are in effect during the month of June preceding the fiscal year in which the adjustments are to occur, and the product rounded to the nearest dollar. The resultant amounts shall constitute the new schedules for the categories given under subdivisions (a), (b), (c), (d), (e), (f), and (g) of Section 12200, and shall be filed with the Secretary of State. The amount as set forth in subdivision (h) of Section 12200 shall be adjusted annually pursuant to this section in the event that the secretary agrees to administer payment under that subdivision. The payment schedule for subdivision (i) of Section 12200 shall be computed as specified, based on the new payment schedules for subdivisions (a), (b), (c), and (d) of Section 12200.

The department shall adjust any amounts of aid under this section to insure that the minimum level required by the Social Security Act in order to maintain eligibility for funds under Title XIX of that act is met.

The repeal and addition of this section at the 1979-80 Regular Session of the Legislature shall not affect, during the 1980-81 fiscal year, the benefits, standards, or other amounts contained in any program for which a cost-of-living increase is incorporated by reference to the provisions of this section except for the program described in Section 13100. The benefits, standards, or other amounts contained in any of these programs shall, on and after July 1, 1981, be based on the benefits, standards, or other amounts in effect on June 30, 1981, increased by the percentage cost-of-living increase currently provided for by this section.

SEC. 5. Section 12303.7 of the Welfare and Institutions Code is amended to read:

12303.7. Any aged, or disabled applicant or recipient who is eligible for assistance under this article, whose disabilities prevent

the use of cooking facilities at home, shall be given the option to receive an allowance of forty-three dollars (\$43) per month for an individual and eighty-six dollars (\$86) per month for a married couple in lieu of the appropriate in-home food preparation and consumption services. The allowance under this section shall be in addition to any amount that the applicant or recipient is entitled to under this chapter. Such allowance shall not have the effect of exceeding the total cost maximum of Sections 12303.5 and 12304. Nothing in this section shall be construed to limit the applicant's or recipient's right to receive the allowance under this section and all other homemaker and chore services.

The State Department of Social Services shall adjust the amount of the allowance under this section on July 1, 1981, and each year thereafter to reflect cost-of-living changes subsequent to January 1, 1980, as provided under Section 12201.

SEC. 6. Section 13920 of the Welfare and Institutions Code is amended to read:

13920. For a person living in a nonmedical out-of-home care facility the department may establish varying allowances for room, board and care, provided that the minimum allowance shall not be less than three hundred sixty-one dollars (\$361) per month and the amount so established shall be subject to increases in accordance with the cost-of-living increase formula set forth in Section 12201.

The room, board and care allowance established pursuant to this section does not include the personal and incidental needs established pursuant to Section 13921.

SEC. 7. Section 13921 of the Welfare and Institutions Code is amended to read:

13921. The department shall establish a range of amounts for the personal and incidental needs of recipients in out-of-home care under this chapter provided that the minimum amount for personal and incidental needs shall not be less than fifty-three dollars (\$53) per month and that the range of amounts so established shall be subject to increases in accordance with the cost-of-living increase formula set forth in Section 12201.

SEC. 8. Section 13922 of the Welfare and Institutions Code is amended to read:

13922. The sum of the allowances established in Sections 13920 and 13921 shall not be less than four hundred fifty-four dollars (\$454) and shall be the sum for purposes of subdivision (g) of Section 12200. Should such sum result in individuals or members of couples becoming ineligible for categorically needy medical services under Section 14005.1, then the sum shall be reduced separately for individuals to the highest whole dollar amount which will allow all individuals to retain eligibility under Section 14005.1 and for members of couples to the highest whole dollar amount which will allow all members of couples to retain such eligibility.

SEC. 9. Section 33 of Chapter 292 of the Statutes of 1978 is amended to read:

Sec. 33. Notwithstanding any other provision of law, for the period from July 1, 1978, to June 30, 1979, the state shall pay the following:

(a) Each county's share toward the cost of payments provided pursuant to the State Supplementary Program under Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code, as specified in Section 12400 of that code.

(b) Each county's share toward the cost of health care provided pursuant to the Medi-Cal Program under Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code, as specified in Sections 14150, 14150.3, and 14150.5 of that code.

(c) Each county's share of payments provided pursuant to the Aid to Families With Dependent Children Program under Chapter 2 (commencing with Section 11200) of Part 3 of Division 9 of the Welfare and Institutions Code, as specified in Section 11450(a) of that code.

(d) Ninety-five percent of the nonfederal share of payments for foster care pursuant to Sections 11450(b) and 11403 of the Welfare and Institutions Code, provided that no county shall be reimbursed for any rate increases negotiated with any boarding home or institution subsequent to June 1, 1978, unless so authorized by the Director of the State Department of Social Services upon the director's determination that such rate increases are necessary and fiscally prudent.

It is the Legislature's intent that the initial payment upon which any increase is calculated for any group home shall be the payment in effect or negotiated on or before June 1, 1978, unless adjusted by a final audit report the results of which were communicated in writing to the group home prior to January 1, 1979.

(e) Each county's share of costs for the administration of the Aid to Families With Dependent Children Program, as specified in Section 15204.2.

(f) Each county's share of the cost of administration of the federal Food Stamp Program under Chapter 10 (commencing with Section 18900) of Part 6 of Division 9 of the Welfare and Institutions Code, as specified in Section 18906 of that code.

Notwithstanding any other provision of law, no obligation for payment may be imposed on a county for the 1978-79 fiscal year under the provisions of Section 12400, 14150, 14150.3, or 14150.5 of the Welfare and Institutions Code. The addition of this paragraph made by the 1979-80 Regular Session of the Legislature does not constitute a change in, but is declaratory of, the existing law.

SEC. 10. Section 3 of this act shall remain in effect only until July 1, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1983, deletes or extends such date.

SEC. 11. Funds appropriated by Item 312 of the Budget Act of 1980 for demonstration projects for the deaf which have not been expended by December 31, 1980, or by the effective date of the contracts entered into pursuant to Section 10626 of the Welfare and

Institutions Code, whichever is later, shall be used by the State Department of Social Services to implement Sections 1 and 2 of this act. Contracts pursuant to Section 10626 of the Welfare and Institutions Code shall be finalized only after the department promulgates requests for proposals and conducts bidder conferences.

The Director of Finance may transfer up to 5 percent of the appropriation in Item 312 of the Budget Act of 1980 for the demonstration projects for the deaf to, and in augmentation of Item 309 of the Budget Act of 1980.

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## CHAPTER 1194

An act to amend Sections 23958, 24013, and 24400 of, to add Sections 23958, 23958.3, 24013, and 24049.5 to, and to repeal Sections 23958, 23958.3, and 24013 of, the Business and Professions Code, and to add Section 6593 to the Revenue and Taxation Code, relating to governmental regulation.

[Approved by Governor September 27, 1980 Filed with  
Secretary of State September 29, 1980.]

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

**SECTION 1.** Section 23958 of the Business and Professions Code is amended to read:

23958. For all licenses except retail package off-sale beer and wine licenses, upon receipt of an application for a license or for a transfer of a license and the applicable fee, the department shall make a thorough investigation to determine whether the applicant and the premises for which a license is applied qualify for a license. The department shall also determine whether the provisions of this division have been complied with, and shall investigate all matters connected therewith which may affect the public welfare and morals. The department shall deny an application for a license or transfer of a license if either the applicant or the premises for which a license is applied do not qualify for a license under this division.

The department further may deny an application for a license if issuance of such license would tend to create a law enforcement problem, or if issuance would result in or add to an undue concentration of licenses and the applicant fails to show that public convenience or necessity would be served by such issuance.

This section shall remain in effect until January 1, 1983, and as of such date is repealed.

**SEC. 2.** Section 23958 is added to the Business and Professions Code, to read:

23958. Upon receipt of an application for a license or for a transfer of a license and the applicable fee, the department shall make a thorough investigation to determine whether the applicant and the premises for which a license is applied qualify for a license and whether the provisions of this division have been complied with, and

shall investigate all matters connected therewith which may affect the public welfare and morals. The department shall deny an application for a license or for a transfer of a license if either the applicant or the premises for which a license is applied do not qualify for a license under this division.

The department further may deny an application for a license if issuance of such license would tend to create a law enforcement problem, or if issuance would result in or add to an undue concentration of licenses and the applicant fails to show that public convenience or necessity would be served by such issuance.

This section shall take effect January 1, 1983.

SEC. 3. Section 23958.3 is added to the Business and Professions Code, to read:

23958.3. For retail package off-sale beer and wine licenses, upon receipt of an application for a license or for transfer of a license and the applicable fee, the department shall make a thorough investigation to determine whether the applicant and the premises for which a license is applied qualify for a license. The department shall also determine whether the provisions of this division have been complied with, and shall investigate all matters directly related to the issuance or transfer of such license which may affect the public welfare and morals. The department shall not, however, investigate any matters connected with the operation of a premises, such as operating hours, parking availability or operating noise, other than those matters which, solely due to the sale of alcoholic beverages, might adversely affect the public welfare and morals. The department shall deny an application for a license or a transfer of a license if either the applicant or the premises for which a license is applied do not qualify for a license under this division.

The department further may deny an application for a license if issuance of such license would tend to create a law enforcement problem, or if issuance would result in or add to an undue concentration of licenses and the applicant fails to show that public convenience or necessity would be served by such issuance.

This section shall remain in effect until January 1, 1983 and as of such date is repealed.

SEC. 4. Section 24013 of the Business and Professions Code is amended to read:

24013. Protests may be filed at any office of the department at any time within 30 days from the first date of posting the notice of intention to engage in the sale of alcoholic beverages at such premises.

The department may reject protests, except protests made by a public agency or public official or protests made by the governing body of a city or county, if it determines such protests are false, vexatious, or without reasonable or probable cause at any time before hearing thereon, notwithstanding the provisions of Section 24016 or 24300. The department shall also reject any protests against an off-sale beer and wine retail alcoholic beverage license which are based on evidence, information or conditions resulting from operation of the premises, such as operating hours, parking

availability or operating noise, not resulting solely from the sale of alcoholic beverages. If the department rejects a protest as provided in this section and issues a license, a protestant whose protest has been rejected may, within 10 days after the issuance of the license, file an accusation with the department alleging the grounds of protest as a cause for revocation of the license and the department shall hold a hearing as provided in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

Nothing in this section shall be construed as prohibiting or restricting any right which the individual making the protest might have to a judicial proceeding.

This section shall remain in effect until January 1, 1983, and as of such date is repealed.

SEC. 5. Section 24013 is added to the Business and Professions Code, to read:

24013. Protests may be filed at any office of the department at any time within 30 days from the first date of posting the notice of intention to engage in the sale of alcoholic beverages at such premises.

The department may reject protests, except protests made by a public agency or public official or protests made by the governing body of a city or county, if it determines such protests are false, vexatious, or without reasonable or probable cause at any time before hearing thereon, notwithstanding the provisions of Section 24016 or 24300. If the department rejects a protest as provided in this section and issues a license, a protestant whose protest has been rejected may, within 10 days after the issuance of the license, file an accusation with the department alleging the grounds of protest as a cause for revocation of the license and the department shall hold a hearing as provided in Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code.

Nothing in this section shall be construed as prohibiting or restricting any right which the individual making the protest might have to a judicial proceeding.

This section shall take effect January 1, 1983.

SEC. 6. Section 24049.5 is added to the Business and Professions Code, to read:

24049.5. (a) The State Board of Equalization may seize and sell the license of any off-sale or on-sale general licensee who, upon termination of business is delinquent in the payment of any taxes due under the Sales and Use Tax Law. In order for a seizure and sale of a license to be accomplished under this section, the licensee shall have either surrendered the license to the department or failed to pay the annual renewal fee to the department. Immediately upon seizure the State Board of Equalization shall give written notice by first class mail to the department and to the licensee of the seizure and of the intention of the board to sell the license. Such seizure and sale shall be in accordance with the provisions of Article 6 (commencing with Section 6796) of Chapter 6 of Part 1 of Division 2 of the Revenue and Taxation Code and with the provisions of this

division. Nothing within these provisions shall be construed to permit the State Board of Equalization to sell alcoholic beverages.

(b) For the purposes of this section "termination of business" means the licensee has ceased business operations and has either surrendered the license to the department or failed to pay the annual renewal fee by the date specified in subdivision (b) of Section 24048.1 or subdivision (b) of Section 24048.3.

(c) The licensee may redeem the license at any time prior to the date of sale of the license by the board or the appropriate reinstatement deadline, whichever occurs first, by conforming to the requirements for reinstatement of a license pursuant to Sections 24048.1 and 24048.3.

The person who purchases the license at the sale may reinstate the license by paying the applicable fees, but the transfer shall be effective only on approval of the department after the purchaser has complied with the requirements for transfer provided in this division.

(d) Subdivision (f) of Section 688 of the Code of Civil Procedure shall not be construed to limit the authority of the State Board of Equalization to seize and sell licenses pursuant to this section.

SEC. 7. Section 24400 of the Business and Professions Code is amended to read:

24400. Notwithstanding any other provision of law, two or more retail licensees of the same type may agree to group purchase distilled spirits and wine from a licensed wholesaler or rectifier through a designated agent, subject to the following restrictions:

(a) The designated agent shall hold a retail license of the same type operating a premises in the same county or counties as the purchasing group.

(b) No retailer shall have more than one designated agent nor shall an agent make purchases for more than one group.

(c) The merchandise purchased for each group shall be delivered to and stored in either a single licensed premises or a single warehouse located in the same county as the premises of the purchasing group and such delivery shall be a single delivery within two consecutive business days at the discount in effect on the day the delivery was commenced. Saturday, Sunday, and holidays shall not be deemed business days.

(d) A record of purchase shall be made by the agent on a master purchase order. Each purchasing retailer shall furnish the designated agent with a signed order setting forth such licensee's purchase, to be attached to and become a part of the master order. Master and individual orders shall be maintained in compliance with Section 25752 and fiscal liability shall extend in so far as the amount of the purchase designated and delivered for each individual retailer of the purchasing group is subject to the provisions of Section 25509.

(e) The merchandise shall be deemed to have been received by each retailer member of the purchasing group when delivered to the designated premises.

(f) When a group buying member has not made payment in full by the expiration of the 30th day from date of delivery or has not paid the one percent charge at the expiration of the 30th day from the date the charge became due, such group buying member shall be expelled from the buying group and prohibited from rejoining that group or joining any other such group until such time that all payments have been received for the merchandise sold and delivered to such retailer more than 30 days previously.

SEC. 8. Section 6593 is added to the Revenue and Taxation Code, to read:

6593. Notwithstanding any other provision of this part, no interest or penalties shall be assessed against any person for failure to make payments of any taxes on leases of personal property to the United States government while the board is enjoined from collecting such taxes by order of the United States District Court for the Central District of California in the case of United States of America v. California State Board of Equalization, No. CV 79-03359-R, provided that payment of any applicable taxes is made within 60 days after the board is no longer enjoined from collecting such taxes.

SEC 9 In furtherance of the provisions of this act, the Governor shall appoint a citizens committee to study the effects of the provisions contained in Sections 1, 3, and 4 of this act and to report the results of such study to the Governor and Legislature on or before July 1, 1982.

SEC. 10. 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.

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## CHAPTER 1195

An act to amend Section 7580 of, and to add Article 3.5 (commencing with Section 7544) to Chapter 11 of Division 3 of, the Business and Professions Code, relating to reposseors, and making an appropriation therefor.

[Approved by Governor September 27, 1980. Filed with Secretary of State September 29, 1980.]

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

SECTION 1. Article 3.5 (commencing with Section 7544) is added to Chapter 11 of Division 3 of the Business and Professions Code, to read:

### Article 3.5. Registration of Employees of Repossessors

7544. As used in this article, "licensee" means a reposessor licensed under this chapter.

7544.1. Except as otherwise provided in this article, every employee of a licensee shall be registered with the director in the manner prescribed by this article.

7544.2. Every person in the employ of a licensee on the effective date of this article shall file with the director an application for registration within 30 days after such effective date.

7544.3. Every person entering the employ of a licensee after the effective date of this article shall file with the director an application for registration within three days after the commencement of such employment.

7544.4. The application for registration under this article shall be on a form prescribed by the director and shall be accompanied by the fee provided for in Section 7580.

7544.5. The application shall be verified and shall include:

(a) The full name, residence address, residence telephone number, date and place of birth, and the social security number of the employee.

(b) A statement listing any and all names used by the employee, other than the name by which he or she is currently known, together with an explanation setting forth the place or places where each such name was used, the date or dates of each use, and a full explanation of the reasons why each such name was used. If the employee has never used a name other than that by which he or she is currently known, this fact shall be set forth in the statement.

(c) The name and address of the employer and the date the employment commenced.

(d) The title of the position occupied by the employee and a description of his or her duties.

(e) Two recent photographs of the employee, of a type prescribed by the director, and two classifiable sets of his or her fingerprints.

7544.6. Managers who comply with other provisions of this chapter are not required to register under this article.

7544.7. Employees of a licensee who are engaged exclusively in stenographic, typing, filing, clerical, or other activities which do not constitute the work of a reposessor as described in Section 7521 are not required to register under this article.

7544.8. After a hearing the director may refuse to register any employee, or may suspend or revoke a previous registration, if the individual has committed any act which, if committed by a licensee, would be grounds for refusing to issue a license, or for the suspension or revocation of a license under this chapter.

7544.9. Upon the completion of registration the director shall issue to the registered employee a suitable pocket card. The exhibition of this card to a licensee shall be considered as prima facie evidence that the person is registered by the department.

7544.10. The department shall keep current and accurate records of all employees registered under this article.

7544.11. Each person registered under this article shall notify the director in writing within 30 days of each change in employment by licensees. If such person ceases to be employed by a licensee he or she shall notify the director in writing within 30 days and shall surrender the registration card to the director. If at some subsequent time such person is again employed by a licensee he or she shall apply for a reissuance of a registration card. Such application shall be on a form prescribed by the director and shall be accompanied by the reregistration fee required by this article. Each employee while registered shall notify the director in writing within 30 days after any change in his or her residence address.

7544.12. The proceedings under this article 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 director shall have all the powers granted therein.

SEC. 2. Section 7580 of the Business and Professions Code is amended to read:

7580. The amount of fees prescribed by this chapter, unless otherwise fixed, is that fixed in the following schedule:

(a) The application fee for an original license in any classification is twenty-five dollars (\$25).

(b) The application fee for an original branch office certificate is fifteen dollars (\$15).

(c) The fee for an original license is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the license is issued, except that, if the license will expire less than one year after its issuance, then the fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the license is issued. The director may, by appropriate regulation, provide for the waiver or refund of the initial license fee where the license is issued less than 45 days before the date on which it will expire.

(d) The renewal fee shall be fixed by the director as follows:

(1) For a license as an insurance adjuster, private investigator or alarm company operator, not more than one hundred dollars (\$100).

(2) For a license as a private patrol operator, not more than two hundred dollars (\$200).

(3) For a branch office certificate, not more than twenty dollars (\$20).

(4) For a license as a private investigator and private patrol operator, not more than two hundred fifty dollars (\$250).

(5) For a license as a reposessor, not more than three hundred dollars (\$300) annually.

(e) The application and license fee for classifications prescribed by the director, in addition to those provided for in this chapter, and the application and license fees for a change in the type of business organization of a licensee, shall be in the amount prescribed by rule

and regulation of the director.

(f) The delinquency fee shall be 50 percent of the renewal fee in effect on the date of expiration, but not more than twenty-five dollars (\$25).

(g) The fee for reexamination of an applicant or his manager is ten dollars (\$10).

(h) Fees to carry out the provisions of subdivisions (f) and (g) of Section 7514 shall be fixed by the director as follows:

(1) A registration fee of not more than twelve dollars (\$12).

(2) A registration renewal fee of not more than ten dollars (\$10).

(3) The firearms qualification fee is not more than ten dollars (\$10).

(4) A firearms requalification fee of not more than ten dollars (\$10).

(i) A reinstatement fee is equal to the amount of the renewal fee plus the regular delinquency fee.

(j) The registration fee required by Section 7544.4 shall be fixed by the director at not more than twenty-five dollars (\$25). The reregistration fee required by Section 7544.4 shall be twenty-five dollars (\$25).

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 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.

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## CHAPTER 1196

An act to amend Sections 25300 and 25403.5 of the Public Resources Code, and to add Section 321 to the Public Utilities Code, relating to energy resources.

[Approved by Governor September 27, 1980. Filed with  
Secretary of State September 29, 1980]

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

SECTION 1. Section 25300 of the Public Resources Code is amended to read:

25300. Every electric utility in the state shall prepare and transmit to the commission on or before March 1, 1976, and every two years thereafter, a report specifying 5-, 12-, and 20-year forecasts or assessments of loads and resources for its service area. The report shall set forth the facilities which, as determined by the electric utility, will be required to supply electric power during the forecast

or assessment periods. The report shall be in a form specified by the commission and shall include all of the following:

(a) A tabulation of estimated peakloads, resources, and reserve margins for each year during the 5- and 12-year forecast or assessment periods, and an estimate of peakload, resources, and reserve margins for the last year in the 20-year forecast or assessment period.

(b) A list of existing electric generating plants in service, with a description of planned and potential generating capacity at existing sites.

(c) A list of facilities which will be needed to serve additional electrical requirements identified in the forecasts or assessments, the general location of such facilities, and the anticipated types of fuel to be utilized in the proposed facilities.

(d) A description of additional system capacity which might be achieved through, among other things, improvements in (1) generating or transmission efficiency, (2) importation of power, (3) interstate or interregional pooling, and (4) other improvements in efficiencies of operation.

(e) An estimation of the availability and cost of fuel resources for the 5-, 12-, and 20-year forecast or assessment periods with a statement by the electric utility describing firm commitments for supplies of fuel required during the forecast or assessment periods.

(f) An annual load duration curve and a forecast of anticipated peakloads for each forecast or assessment period for the residential, commercial, industrial, and such other major demand sectors in the service area of the electric utility as the commission shall determine.

(g) A description of projected population growth, urban development, industrial expansion, and other growth factors influencing increased demand for electric energy and the bases for such projections.

(h) Certification by the utility that aggressive conservation programs in the residential, commercial, and industrial sectors are being pursued, including load management standards adopted by the commission pursuant to Section 25403.5; and a statement specifying the extent to which such programs are achieving enhanced energy efficiency and conservation and the extent to which such programs do not, in the utility's evaluation, mitigate the need for additional facilities or, with respect to a publicly owned utility, that the governing body thereof has found the load management standards, as prescribed by the commission pursuant to Section 25403.5, or a portion thereof are unsuitable, together with an explanation of why the standards or portions thereof are unsuitable.

SEC. 2. Section 25403.5 of the Public Resources Code is amended to read:

25403.5. The commission shall, by July 1, 1978, adopt standards by regulation for a program of electrical load management for each utility service area. In adopting the standards, the commission shall consider, but need not be limited to, the following load management

techniques:

(1) Adjustments in rate structure to encourage use of electrical energy at off-peak hours or to encourage control of daily electrical load. Compliance with such changes in rate structure shall be subject to the approval of the Public Utilities Commission in a proceeding to change rates or service.

(2) End use storage systems which store energy during off-peak periods for use during peak periods.

(3) Mechanical and automatic devices and systems for the control of daily and seasonal peakloads.

The standards shall be cost effective when compared with the costs for new electrical capacity, and the commission shall find them to be technologically feasible. Any expense or any capital investment required of a utility by the standards shall be an allowable expense or an allowable item in the utility rate base and shall be treated by the Public Utilities Commission as such in a rate proceeding.

The commission may determine that one or more of such techniques are infeasible and may delay their adoption. If the commission determines that any techniques are infeasible to implement, it shall make a finding in each instance stating the grounds upon which the determination was made and the actions it intends to take to remove the impediments to implementation. The commission's findings shall be published and forwarded to the Governor and the Legislature.

The commission may also grant, upon application by a utility, an exemption from the standards or a delay in implementation. The grant of an exemption or delay shall be accompanied by a statement of findings by the commission indicating the grounds for the exemption or delay. Exemption or delay shall be granted only upon a showing of extreme hardship, technological infeasibility, lack of cost effectiveness, or reduced system reliability and efficiency.

This section does not apply to proposed sites and related facilities for which a notice of intent or an application requesting certification has been filed with the commission prior to the effective date of the standards.

SEC. 3. Section 321 is added to the Public Utilities Code, to read:

321. The Legislature hereby declares that it is the policy of the state to utilize consistent methodologies for the determination of cost-effectiveness for energy conservation programs for residential buildings. The Public Utilities Commission and the State Energy Resources Conservation and Development Commission shall jointly develop and adopt a common methodology for cost-effectiveness calculations using common data to the maximum extent feasible. This shall be accomplished by December 31, 1981, as required by Section 25402.3 of the Public Resources Code.

This section shall become operative only if Senate Bill No. 1185 of the 1979-80 Regular Session is enacted into law.

## CHAPTER 1197

An act to amend Sections 11126, 11554, and 15701 of the Government Code, relating to the Franchise Tax Board.

[Approved by Governor September 27, 1980 Filed with  
Secretary of State September 29, 1980 ]

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

SECTION 1. Section 11126 of the Government Code is amended to read:

11126. Nothing contained in this article shall be construed to prevent a state agency from holding executive sessions during a regular or special meeting to consider the appointment, employment or dismissal of a public employee or to hear complaints or charges brought against such employee by another person or employee unless such employee requests a public hearing. As a condition to holding an executive session on the complaints or charges to consider disciplinary action or to consider dismissal such employee shall be given written notice of his right to have a public hearing rather than an executive session, which notice shall be delivered to him personally or by mail at least 24 hours before the time for holding a regular or special meeting. If notice is not given, any disciplinary or other action taken against any employee at such executive session shall be null and void. The state agency also may exclude from any such public or private meeting, during the examination of a witness, any or all other witnesses in the matter being investigated by the state agency. Following the public hearing or executive session the agency may deliberate on the decision to be reached in an executive session.

For the purposes of this section, the term "employee" shall not include any person who is elected to, or appointed to a public office by, any state agency; provided, however, that officers of the California State University and Colleges who receive compensation for their services other than per diem and ordinary and necessary expenses shall, when engaged in such capacity, be considered employees.

Nothing in this article shall be construed to prevent state agencies, which administer the licensing of persons engaging in businesses or professions, from holding executive sessions to prepare, approve, grade or administer examinations.

Nothing in this article shall be construed to prohibit a state agency from holding an executive session to deliberate on a decision to be reached based upon evidence introduced in a proceeding required to be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1, Division 3, Title 2 of the Government Code or similar provision of law.

Nothing in this article shall be construed to prevent any state

agency from holding an executive session to consider matters affecting the national security.

Nothing in this article shall be construed to grant a right to enter any correctional institution or the grounds of a correctional institution where that right is not otherwise granted by law, nor shall anything in this article be construed to prevent a state agency from holding an executive session when considering and acting upon the determination of a term, parole, or release of any individual or other disposition of an individual case, or if public disclosure of the subjects under discussion or consideration is expressly prohibited by statute.

Nothing in this article shall be construed to prevent any executive session to consider the conferring of honorary degrees, or gifts, donations and bequests which the donor or proposed donor has requested in writing to be kept confidential.

Nothing in this article shall be construed to prevent the Alcoholic Beverage Control Appeals Board from holding an executive session for the purpose of holding a deliberative conference as provided in Section 11125 of the Government Code.

Nothing in this article shall be construed to prevent the Trustees of the California State Colleges from holding executive sessions dealing with site selection for such state colleges.

Nothing in this article shall be construed to prevent the California Postsecondary Education Commission from holding executive sessions to consider matters pertaining to the appointment or termination of the Director of the California Postsecondary Education Commission.

Nothing in this article shall be construed to prevent the Franchise Tax Board from holding executive sessions for the purpose of discussion of confidential tax returns or data the public disclosure of which is prohibited by law, or from considering matters pertaining to the appointment or removal of the executive officer of the Franchise Tax Board.

Nothing in this article shall be construed to prevent the Board of Corrections from holding executive sessions when considering reports of crime conditions under the provisions of Section 6027 of the Penal Code.

Nothing in this article shall be construed to prevent the State Air Resources Board from holding executive sessions when considering the proprietary specifications and performance data of manufacturers.

Nothing in this article shall be construed to prevent the Board of Administration of the Public Employees' Retirement System from holding executive sessions when considering investment decisions.

Nothing in this article shall be construed to prevent the Teachers' Retirement Board of the State Teachers' Retirement System from holding executive sessions when considering investment decisions.

Nothing in this article shall be construed to prevent the governing body of a public agency, or such boards, commissions, administrative officers, or other representatives as may properly be designated by

law or by such governing body, from holding executive sessions with its representatives at any time in discharging its responsibilities under Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of this code as such sessions relate to salaries, salary schedules, or compensation paid in the form of fringe benefits.

Notwithstanding any other provision of law, any meeting of the Public Utilities Commission at which the rates of entities under the commission's jurisdiction are changed shall be open and public.

Nothing in this article shall be construed to prevent the Public Utilities Commission from holding executive sessions to deliberate on the institution of proceedings, disciplinary actions against regulated utilities, or litigation.

SEC. 2. Section 11126 of the Government Code is amended to read:

11126. Nothing contained in this article shall be construed to prevent a state agency from holding closed sessions during a regular or special meeting to consider the appointment, employment or dismissal of a public employee or to hear complaints or charges brought against such employee by another person or employee unless such employee requests a public hearing. As a condition to holding a closed session on the complaints or charges to consider disciplinary action or to consider dismissal such employee shall be given written notice of his or her right to have a public hearing rather than a closed session, which notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding a regular or special meeting. If notice is not given, any disciplinary or other action taken against any employee at such closed session shall be null and void. The state agency also may exclude from any such public or private meeting, during the examination of a witness, any or all other witnesses in the matter being investigated by the state agency. Following the public hearing or closed session the agency may deliberate on the decision to be reached in a closed session.

For the purposes of this section, the term "employee" shall not include any person who is elected to, or appointed to a public office by, any state agency; provided, however, that officers of the California State University and Colleges who receive compensation for their services other than per diem and ordinary and necessary expenses shall, when engaged in such capacity, be considered employees.

Nothing in this article shall be construed to prevent state agencies, which administer the licensing of persons engaging in businesses or professions, from holding closed sessions to prepare, approve, grade or administer examinations.

Nothing in this article shall be construed to prohibit a state agency from holding a closed session to deliberate on a decision to be reached based upon evidence introduced in a proceeding required to be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1, Division 3, Title 2 of the Government Code or

similar provision of law.

Nothing in this article shall be construed to prevent any state agency from holding a closed session to consider matters affecting the national security.

Nothing in this article shall be construed to grant a right to enter any correctional institution or the grounds of a correctional institution where that right is not otherwise granted by law, nor shall anything in this article be construed to prevent a state agency from holding a closed session when considering and acting upon the determination of a term, parole, or release of any individual or other disposition of an individual case, or if public disclosure of the subjects under discussion or consideration is expressly prohibited by statute.

Nothing in this article shall be construed to prevent any closed session to consider the conferring of honorary degrees, or gifts, donations and bequests which the donor or proposed donor has requested in writing to be kept confidential.

Nothing in this article shall be construed to prevent the Alcoholic Beverage Control Appeals Board from holding a closed session for the purpose of holding a deliberative conference as provided in Section 11125 of the Government Code.

Nothing in this article shall be construed to prevent the Trustees of the California State Colleges from holding closed sessions dealing with site selection for such state colleges.

Nothing in this article shall be construed to prevent the California Postsecondary Education Commission from holding closed sessions to consider matters pertaining to the appointment or termination of the Director of the California Postsecondary Education Commission.

Nothing in this article shall be construed to prevent the Franchise Tax Board from holding closed sessions for the purpose of discussion of confidential tax returns or data the public disclosure of which is prohibited by law, or from considering matters pertaining to the appointment or removal of the executive officer of the Franchise Tax Board.

Nothing in this article shall be construed to prevent the Board of Corrections from holding closed sessions when considering reports of crime conditions under the provisions of Section 6027 of the Penal Code.

Nothing in this article shall be construed to prevent the State Air Resources Board from holding closed sessions when considering the proprietary specifications and performance data of manufacturers.

Nothing in this article shall be construed to prevent the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering investment decisions.

Nothing in this article shall be construed to prevent the Teachers' Retirement Board of the State Teachers' Retirement System from holding closed sessions when considering investment decisions.

Nothing in this article shall be construed to prevent the governing body of a state agency, or such boards, commissions, administrative officers, or other representatives as may properly be designated by

law or by such governing body, from holding closed sessions with its representatives at any time in discharging its responsibilities under Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of this code as such sessions relate to salaries, salary schedules, or compensation paid in the form of fringe benefits. For the purposes enumerated in the preceding sentence, a state agency may also meet with a state conciliator who has intervened in the proceedings, providing that a quorum of the state agency is present. For purposes of this paragraph, a state agency may not otherwise meet without using a designated representative, but it may appoint from its membership a member or members to act as its designated representative, with whom it may meet in closed session.

Notwithstanding any other provision of law, any meeting of the Public Utilities Commission at which the rates of entities under the commission's jurisdiction are changed shall be open and public.

Nothing in this article shall be construed to prevent the Public Utilities Commission from holding closed sessions to deliberate on the institution of proceedings, disciplinary actions against regulated utilities, or litigation.

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) Director of Parks and Recreation
- (d) Director of Rehabilitation
- (e) Director of Veterans Affairs
- (f) Director of Professional and Vocational Standards
- (g) Members of the Unemployment Insurance Appeals Board
- (h) State Architect
- (i) Director of Forestry.

SEC. 4. Section 15701 of the Government Code is amended to read:

15701. The Franchise Tax Board, with the consent and approval of two-thirds of the membership of the Senate, may appoint an executive officer who shall be a civil executive officer and shall perform such duties as are delegated to him by the Franchise Tax Board. The executive officer may be removed by a two-thirds vote of the Franchise Tax Board. The Legislature hereby requests the Franchise Tax Board to designate said executive officer as the person holding the position confidential to it, within the meaning of subdivision (e) of Section 4 of Article VII of the Constitution. The annual salary of the executive officer shall be fifty-one thousand six hundred twenty-four dollars (\$51,624). The executive officer shall employ, in addition to existing employees of the Franchise Tax Commissioner, such other assistants and clerical and other employees as he deems necessary for the effective conduct of his work, and shall fix their compensation in accordance with law.

SEC. 5. For the 1980–81 fiscal year and for each fiscal year thereafter, the salary of the executive officer of the Franchise Tax Board as set forth in Section 15701 of the Government Code shall be adjusted in the same manner as provided in the Budget Act for state officers whose salaries are prescribed by statute.

SEC. 6. It is the intent of the Legislature, if this bill and Senate Bill No. 1850 are both chaptered and amend Section 11126 of the Government Code, and this bill is chaptered after Senate Bill No. 1850, that the amendments to Section 11126 proposed by both bills be given effect and incorporated in Section 11126 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 No. 1850 are both chaptered, both amend Section 11126, and Senate Bill No. 1850 is chaptered before this bill, in which case Section 1 of this act shall not become operative.

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## CHAPTER 1198

An act to add Section 67.4 to the Harbors and Navigation Code, and to add Article 3 (commencing with Section 560) to Chapter 1 of Division 1 of the Public Resources Code, relating to public resources, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1980 Filed with  
Secretary of State September 29, 1980 ]

I am reducing the appropriation contained in Section 3 of Assembly Bill No. 1143 from \$1,700,000 to \$600,000 by eliminating the \$1,100,000 appropriation contained in subsection (b).

This appropriation would duplicate the appropriation contained in Senate Bill No. 713 which I plan to approve

With this reduction, I approve Assembly Bill No. 1143

EDMUND G. BROWN Jr., Governor

[Approved by Governor September 27, 1980. Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. Section 67.4 is added to the Harbors and Navigation Code, to read:

67.4. The department shall conduct the repair and restoration of the beach and shoreline located adjacent to the Pacific Ocean and in the City of Oceanside if the city does all of the following:

(a) Prepares a plan for the repair and restoration which is approved by the department and the State Coastal Conservancy.

(b) Agrees to commit funds for the repair and restoration equal to the amount of state funds appropriated for the repair and restoration.

SEC. 2. Article 3 (commencing with Section 560) is added to Chapter 1 of Division 1 of the Public Resources Code, to read:

Article 3. City of Pismo Beach Seawall Repair

560. The department may participate or contract with the United States Army Corps of Engineers, the County of San Luis Obispo, or the City of Pismo Beach, or any or all of them, in repairing and improving the concrete seawall at Pismo State Beach adjacent to the Pacific Ocean in the City of Pismo Beach, including access ways, safety railing, utilities, repaving, and restrooms.

561. The department shall permit the United States, if it agrees to accomplish all or part of the work, to use the necessary real property, or any interest therein, for the work to be performed pursuant to this article. The department may hold and save the federal government free from damages for all time due to the construction, operation, and maintenance of the seawall, including access ways, safety railing, utilities, repaving, and restrooms, and may provide directly or by agreement with the City of Pismo Beach items of local cooperation as required for federal participation in this project. Items of local cooperation provided by the department shall be subject to the approval of the Director of Finance.

562. The department, with the approval of the Director of Finance and on terms satisfactory to the department, may advance moneys appropriated for purposes of this article to the United States Army Corps of Engineers, the County of San Luis Obispo, or the City of Pismo Beach, or any or all of them, for the repair, replacement, or improvement of the facilities described in Section 561.

563. Notwithstanding Article 2.5 (commencing with Section 65) of Chapter 2 of Division 1 of the Harbors and Navigation Code and Part 6 (commencing with Section 12570) of Division 6 of the Water Code, the department shall perform the duties imposed on it pursuant to this article.

SEC. 3. The sum of one million seven hundred thousand dollars (\$1,700,000) is hereby appropriated for allocation as follows:

(a) Six hundred thousand dollars (\$600,000) from the Energy and Resources Fund to the Department of Boating and Waterways for purposes of Section 67.4 of the Harbors and Navigation Code.

(b) One million one hundred thousand dollars (\$1,100,000) from the State Parks and Recreation Fund to the Department of Parks and Recreation for repair, replacement and improvement to the seawall, including access ways, safety railing, restrooms, utilities and paving, in the City of Pismo Beach which may be expended in cooperation with the United States Army Corps of Engineers, County of San Luis Obispo or the City of Pismo Beach.

SEC. 4. Pursuant to Section 5096.96 of the Public Resources Code, the County of San Diego is hereby authorized to transfer title to a parcel in the eastern portion of Eden Gardens Park, identified as County Real Property Parcel No. 79-0157-A and consisting of

approximately 3,000 square feet, being approximately 25 feet wide and 125 feet deep, and fronting on Valley Avenue, to any private party at such time as the county enters into a project agreement with the Department of Parks and Recreation requiring the county to devote the proceeds of the sale of the parcel to the further improvement of the lands and facilities at Eden Gardens Park acquired with the grant of state funds appropriated in Item 390 (253) of the Budget Act of 1975.

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 urgently needed work on beach projects in the Cities of Oceanside and Pismo Beach be undertaken as soon as possible, and in order to clear title to real property within Eden Gardens Park in the County of San Diego, it is necessary that this act take effect immediately.

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#### CHAPTER 1199

An act to add Article 3 (commencing with Section 560) to Chapter 1 of Division 1 of the Public Resources Code, relating to beach projects, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1980 Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. Article 3 (commencing with Section 560) is added to Chapter 1 of Division 1 of the Public Resources Code, to read:

#### Article 3. City of Pismo Beach Seawall Repair

560. The department may participate or contract with the United States Army Corps of Engineers, the County of San Luis Obispo, or the City of Pismo Beach, or any or all of them, in repairing and improving the concrete seawall at Pismo State Beach adjacent to the Pacific Ocean in the City of Pismo Beach, including access ways, safety railing, utilities, repaving, and restroom.

561. The department shall permit the United States, if it agrees to accomplish all or part of the work, to use the necessary real property, or any interest therein, for the work to be performed pursuant to this article. The department may hold and save the federal government free from damages for all time due to the construction, operation, and maintenance of the seawall, including access ways, safety railing, utilities, repaving, and restroom, and may

provide directly or by agreement with the City of Pismo Beach items of local cooperation as may be required for federal participation in this project. Items of local cooperation provided by the department shall be subject to the approval of the Director of Finance.

562. The department, with the approval of the Director of Finance and on terms satisfactory to the department, may advance moneys appropriated for purposes of this article to the United States Army Corps of Engineers, the County of San Luis Obispo, or the City of Pismo Beach, or any or all of them, for the repair, replacement, or improvement of the facilities described in Section 561.

563. Notwithstanding Article 2.5 (commencing with Section 65) of Chapter 2 of Division 1 of the Harbors and Navigation Code and Part 6 (commencing with Section 12570) of Division 6 of the Water Code, the department shall perform the duties imposed on it pursuant to this article.

SEC. 2. The sum of one million one hundred thousand dollars (\$1,100,000) is hereby appropriated from the State Parks and Recreation Fund to the Department of Parks and Recreation which may be expended in cooperation with the United States Army Corps of Engineers, the County of San Luis Obispo, or the City of Pismo Beach, or any or all of them, for repair, replacement and improvement to the seawall, including accessways, safety railing, restrooms, utilities and paving, in the City of Pismo Beach if Assembly Bill No. 2973 of the 1979-80 Regular Session is chaptered before this bill and transfers moneys to the State Parks and Recreation Fund, and if not, the project shall be funded as provided in Section 2.5 of this act.

The funds appropriated under this section or under Section 2.5 of this act shall be reduced by the amount of any federal funds made available for the project.

SEC. 2.5. If Assembly Bill No. 2973 of the 1979-80 Regular Session is not chaptered before this bill, the appropriation of funds from the State Parks and Recreation Fund as provided in Section 2 of this act 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 appropriation 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.

If Assembly Bill No. 2973 of the 1979-80 Regular Session is chaptered after this bill and transfers moneys to the State Parks and Recreation Fund, upon the effective date of Assembly Bill No. 2973, an amount equal to the amounts allocated in the interim between the effective date of this act and the effective date of Assembly Bill No. 2973 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 State Parks and Recreation 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 any appropriations which, but for this section, would have been made from the State Parks and Recreation Fund shall be made from that 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 III of the Constitution and shall go into immediate effect. The facts constituting such necessity are:

In order that urgently needed work on the Pismo State Beach seawall be undertaken as soon as possible, it is necessary that this act take effect immediately.

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## CHAPTER 1200

An act to add Section 1045 to the Penal Code, relating to criminal procedure.

[Approved by Governor September 27, 1980. Filed with  
Secretary of State September 29, 1980 ]

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

SECTION 1. Section 1045 is added to the Penal Code, to read:  
1045. In any misdemeanor or infraction matter, where a verbatim record of the proceedings is not required to be made and where the right of a party to request a verbatim record is not provided for pursuant to any other provision of law or rule of court, if any party makes a request at least five days in advance and deposits the required fees, the court shall order that a verbatim record be made of all proceedings. Except as otherwise provided by law or rule the party requesting any reporting, recording, or transcript pursuant to this section shall pay the cost of such reporting, recording, or transcript.

This section shall cease to be operative upon a final decision of an appellate court holding that there is a constitutional right or other requirement that a verbatim record or transcript be provided at public expense for indigent or any other defendants in cases subject to the provisions of this section.

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## CHAPTER 1201

An act to add Article 4 (commencing with Section 43840) to Chapter 4 of Part 5 of Division 26 of the Health and Safety Code, relating to alcohol fueled motor vehicles.

[Approved by Governor September 27, 1980. Filed with  
Secretary of State September 29, 1980 ]

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

SECTION 1. Article 4 (commencing with Section 43840) is added to Chapter 4 of Part 5 of Division 26 of the Health and Safety Code, to read:

Article 4. Alcohol Fueled Motor Vehicles

43840. (a) The Legislature finds and declares that emission of air pollutants from motor vehicles is a major contributor to air pollution within the State of California and, therefore, declares its policy to encourage the testing of various types of vehicle fuels, which would contribute substantially to the protection and preservation of the public health and well-being.

(b) The Legislature further finds and declares that programs to expand the use of alcohols as substitutes for gasoline and other petroleum-based fuels can offer significant environmental benefits while reducing the nation's dependence on imported crude oil.

(c) The Legislature further finds and declares that pure alcohol fuels burn cleanly and that motor vehicles fueled with alcohol can be modified at reasonable cost to burn alcohol fuels without decreasing efficiency and without creating air quality problems.

(d) It is, therefore, the intent and purpose of the Legislature, to authorize the establishment of a demonstration program in the County of Ventura for the testing of pure alcohol fuels in the county and municipal motor vehicle fleets.

43841. The Secretary of the Business and Transportation Agency shall reimburse the County of Ventura from funds appropriated for alternative motor vehicle fuels for the cost of conversion of fleet vehicles provided that the state board finds both of the following:

(a) All changes to the vehicles are absolutely necessary for the vehicles to operate on pure alcohol.

(b) The fuel systems of the motor vehicles have been certified pursuant to Section 43006.

43841.5. The Secretary of the Business and Transportation Agency shall make the reimbursement pursuant to Section 43841 only in the event the County of Los Angeles and the California Energy Commission fail to reach an agreement, on or before December 31, 1980, to conduct a demonstration program similar to that provided in this article, as determined by the secretary, for the testing of alcohol fuels. If the County of Los Angeles and the State Energy Resources Conservation and Development Commission do reach such an agreement by December 31, 1980, no reimbursement shall be made pursuant to this article.

## CHAPTER 1202

An act to add Chapter 7.5 (commencing with Section 4740) to Division 4.1 of the Welfare and Institutions Code, relating to the developmentally disabled.

[Approved by Governor September 27, 1980 Filed with  
Secretary of State September 29, 1980 ]

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

SECTION 1. Chapter 7.5 (commencing with Section 4740) is added to Division 4.1 of the Welfare and Institutions Code, to read:

CHAPTER 7.5. RESIDENTIAL CARE FACILITY APPEALS  
PROCEDURES

4740. The Legislature finds the following:

(a) The quality of care provided to persons with developmental disabilities by residential facilities is contingent upon a closely coordinated "team" effort by the regional center or its designee, the client, the parent or representative if appropriate, the residential facility administrator, and the licensing agency. The rights and responsibilities of each must be identified in order to assure clear direction and accountability for each.

(b) The quality of care is impaired when inordinate numbers of staff from placement and licensing agencies give direction to the facility administrator regarding care and service requirements.

4741. An adult person with a developmental disability has the legal right to determine where his or her residence will be. Except in a situation which presents immediate danger to the health and well-being of the individual, the regional center or its designee shall not remove a client from a residential care facility against the client's wishes unless there has been specific court action to abridge such right with respect to an adult or unless the parent, guardian or conservator consents with respect to a child.

4742. The regional center or its designated representative shall (a) guide and counsel facility staff regarding the care and services required by each client served by the regional center; and (b) monitor the care and services provided the individual to assure that care and services are provided in accordance with the individual program plan.

4743. It is the intent of the Legislature that to the greatest extent possible, the staff of the regional center or its designee are assigned so as to minimize the number of persons responsible for programs provided in a given facility.

The regional center or its designee shall designate the staff person responsible for assuring that each individual client's program plan is carried out. One person shall be assigned by the regional center as

the principal liaison to a facility and to monitor the provision of care and the services provided by that facility in accordance with the individual program plans. If, due to the number of regional center clients in the facility, additional staff of a regional center or its designee serve clients in the facility, one person shall be assigned as having primary responsibility for, and assure consistency and continuity of, directions to the administrator and for the monitoring of care and services.

4744. The regional center or its designee shall provide to the residential facility administrator all information in its possession concerning any history of dangerous propensity of the client prior to the placement in that facility. However, no confidential client information shall be released pursuant to this section without the consent of the client or authorized representative.

4745. During each visit to the facility, the designated staff person shall inform the administrator orally of any substantial inadequacies in the care and services provided, the specific corrective action necessary and the date by which corrective action must be completed. The designated staff person shall confirm this information in writing to the administrator within 48 hours after the oral notice and inform the administrator of the right to appeal the findings.

4746. The severity of the deficiencies and the quality of care provided shall determine how long the regional center or its designee will work with the facility administrator to resolve inadequacies. After a reasonable period of time, if the care continues to be unacceptable, the designated staff person shall submit to his or her supervisor and to the licensing agency and administrator a recommended disposition with supporting documents attached. The placement agency shall develop sufficient documentation of inadequacies and care provided to sustain corrective action.

4747. If an adult person or the parent, guardian or conservator on behalf of a child requests a relocation, the regional center or its designee may provide assistance in locating and moving to another residence.

The regional center or its designee shall not encourage a client to move from a residential facility without reasonable cause. If reasonable cause does exist, the regional center or its designee shall give at least 15 days' written notice to the facility administrator of the intent, prior to counseling the client to move.

4748. Within nine months of the effective date of this section, the State Department of Developmental Services shall develop and implement regulations for use by the regional center or its designee to assure uniformity of the care and services to be provided to persons registered with the regional centers who reside in residential facilities.

## CHAPTER 1203

An act to add and repeal Article 4.5 (commencing with Section 48990) to Chapter 6 of Part 27 of the Education Code, relating to schools.

[Approved by Governor September 27, 1980 Filed with  
Secretary of State September 29, 1980 ]

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

SECTION 1. Article 4.5 (commencing with Section 48990) is added to Chapter 6 of Part 27 of the Education Code, to read:

Article 4.5. Notification Pilot Program

48990. The Department of Education shall establish a pilot program to notify parents and guardians of statutes and regulations relating to, but not limited to, all the following:

- (a) Liability of parent or guardian for the acts of the pupil.
- (b) Criminal acts of the pupil committed at a school site or at a school-related activity.
- (c) Status offenses committed at a school site or at a school-related activity.
- (d) Truancy.

48991. (a) The Department of Education shall select five school districts with schools located in high crime areas to participate in the program. Only school districts which have requested to participate in the pilot project shall be selected.

(b) The cumulative average daily attendance of the selected districts shall be at least 10,000.

(c) Only pupils enrolled in the 7th to 12th grade, inclusive, of the selected districts and their parents or guardians shall participate in the program.

(d) The governing board of each selected school district shall notify the parents and guardians of pupils enrolled in the 7th to 12th grade, inclusive, of statutes and regulations enumerated in Section 48990. Such notification shall be made as part of the notification required by Article 4 (commencing with Section 48980).

(e) The governing board of each selected school district shall provide for meetings of parents and appropriate school employees to discuss the statutes and regulations. The meetings shall be held within a reasonable time after the parents or guardians receive notification of such statutes and regulations.

48992. The governing board of each selected school district shall report annually to the Department of Education on the effectiveness of the program in reducing crime in the district.

48993. The Department of Education shall report annually to the Legislature on the effectiveness of the program in reducing crime in

the selected school districts. It is the intent of the Legislature that the evaluation report required by this section be prepared with the existing resources available to the Department of Education. No additional funds shall be made available to the Department of Education for preparation and publication of such report.

48994. The Department of Education shall apply to the federal government or any agency thereof, and to any other source or agency, whether public or private, for a gift or grant of funds for the implementation of the program prescribed by this article.

48995. This article shall remain in effect only until December 31, 1983, and as of such date is repealed, unless a later enacted statute, which is chaptered before December 31, 1983, deletes or extends such date.

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## CHAPTER 1204

An act to amend Section 604 of, and to add and repeal Section 606 of, the Health and Safety Code, relating to public health nurses.

[Approved by Governor September 27, 1980. Filed with Secretary of State September 29, 1980.]

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

SECTION 1. Section 604 of the Health and Safety Code is amended to read:

604. A nonreturnable fee, as determined by the state department, not to exceed thirty-five dollars (\$35) shall be paid by a person at the time of application for certification as a public health nurse. All fees payable under the provisions of this section shall be collected by and paid to the state department, and shall be deposited by the state department in the General Fund. It is the intention of the Legislature that the costs of carrying out the purposes of this chapter shall be covered by the revenues collected pursuant to this section.

SEC. 2. Section 606 is added to the Health and Safety Code, to read:

606. (a) The state department, in consultation with the Task Force on Public Health Nursing of the California Conference of Local Health Officers, shall implement a pilot program which allows registered nurses to qualify for certification as public health nurses based upon a combination of educational, practical public health nursing experience, and successful passage of an examination.

(b) Participation in the pilot project described in subdivision (a) is limited to California-licensed registered nurses graduated from nursing schools in the United States who (1) hold a baccalaureate degree in a field other than nursing and have additional public health nursing coursework and public health nursing experience, or

(2) hold a baccalaureate degree in nursing from a school not accredited by the National League of Nursing, or (3) have public health nursing experience and additional public health nursing coursework but no baccalaureate degree.

(c) The state department shall charge each applicant for participation in the pilot program a fee, equal to the cost of implementing the program pursuant to subdivision (a), but not to exceed thirty-five dollars (\$35).

This section shall remain in effect until January 1, 1985, and on such date is repealed, unless a later enacted statute chaptered on or before such date deletes or extends such date. The department shall report to the Legislature, describing the competency testing mechanism being utilized, evaluating the program to date, making recommendations for legislative action. Such report shall include the number of applicants certified under this pilot program, the number of applicants who failed certification, the success of such certified applicants in finding employment, and the value of using the competency based test to test all applicants for public health nurse certification. The evaluation of the project shall be based on the validity of the test and its ability to screen applicants for their knowledge and competence to perform as public health nurses. Such report shall be made on or before July 1, 1983.

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## CHAPTER 1205

An act to amend and renumber Section 7900 of, and to add Division 9 (commencing with Section 7900) to Title 1 of, the Government Code, relating to state and local government.

[Approved by Governor September 27, 1980 Filed with  
Secretary of State September 29, 1980 ]

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

SECTION 1. Section 7900 of the Government Code, as added by Chapter 220 of the Statutes of 1980, is amended and renumbered to read:

7902.5. The governing body of any city incorporated after July 1, 1978, but prior to January 1, 1980, may, by resolution, adopt an appropriations limit for the purposes of Article XIII B of the California Constitution determined in the following manner:

(a) If the city's first full fiscal year of operation was the 1979-80 fiscal year, the appropriations limit of the city for fiscal year 1980-81 shall be equal to the total amount of proceeds of taxes received for fiscal year 1979-80 adjusted for changes in the cost of living and population and such other changes as may be required or permitted by Article XIII B.

(b) If the city's first full fiscal year of operation is the 1980-81 fiscal

year, the governing body of the city shall, prior to July 1, 1980, estimate the amount of revenue anticipated to be received by the city from the proceeds of taxes for the 1980-81 fiscal year. This amount shall be the appropriations limit of the city for the 1980-81 fiscal year. For the 1981-82 fiscal year and each fiscal year thereafter, the appropriations limit of the city shall be equal to the total amount of proceeds of taxes received for fiscal year 1980-81 adjusted for changes in the cost of living and population and such other changes as may be required or permitted by Article XIII B.

SEC. 2. Division 9 (commencing with Section 7900) is added to Title 1 of the Government Code, to read:

### DIVISION 9. EXPENDITURE LIMITATIONS

7900. (a) The Legislature finds and declares that the purpose of this division is to provide for the effective and efficient implementation of Article XIII B of the California Constitution.

(b) It is the intent of the Legislature that citizens be provided with timely information so that effective oversight can be accomplished at the local level.

7901. For the purposes of Article XIII B of the California Constitution and this division:

(a) "Change in California per capita personal income" for a calendar year means the number resulting when the quotient of the California personal income, as published by the U.S. Department of Commerce in the Survey of Current Business for the fourth quarter of a calendar year divided by the civilian population of the state on January 1 of the next calendar year, as estimated by the Department of Finance, is divided by the similarly determined quotient for the next prior year. For example, the change in California per capita personal income for 1979 (to be used for computing the appropriations limit for the 1980-81 fiscal year) would equal the fourth quarter 1979 personal income divided by the January 1, 1980, population, the quotient divided by the fourth quarter 1978 personal income divided by the January 1, 1979, population.

(b) "Change in cost of living" for a calendar year means the number resulting when the United States All Urban Consumer Price Index for the month of March of a calendar year is divided by such index for the month of March of the prior calendar year.

(c) "Change in population" for a local agency for a calendar year means the number resulting when the percentage change in population between January 1 of the next calendar year and January 1 of the calendar year in question, as estimated by the Department of Finance pursuant to Section 2227 of the Revenue and Taxation Code for each city and county and Section 2228 of the Revenue and Taxation Code for each special district, plus 100, is divided by 100. For example, the change in population for 1979 would equal the percentage change in population between January 1, 1980, and January 1, 1979, plus 100, the sum divided by 100. For purposes of the state's appropriations limit, "change in population" means the number resulting when the civilian population of the state on

January 1 of the next calendar year, as estimated by the Department of Finance, is divided by the similarly estimated population for January 1 of the calendar year in question. For example, the change in population for 1979 (to be used for computing the appropriations limit for the 1980-81 fiscal year) would equal the January 1, 1980, population divided by the January 1, 1979, population.

(d) "Change in population" for a school district means the number resulting when the second principal apportionment units of average daily attendance for the current regular school year, excluding average daily attendance in summer programs, adult education programs, and in regional occupational centers and programs, is divided by the corresponding number for the preceding year.

(e) "Change in population" for a community college district means the number resulting when the average daily attendance for the community college district for the current year computed pursuant to Section 84500 of the Education Code is divided by the similarly computed average daily attendance for the previous year.

(f) "Local agency" means a city, county, city and county, special district, authority or other political subdivision of the state, except a school district, community college district, or county superintendent of schools. The term "special district" shall not include any district which (1) existed on January 1, 1978, and did not possess the power to levy a property tax at that time or did not levy or have levied on its behalf, an ad valorem property tax rate on all taxable property in the district on the secured roll in excess of 12½ cents per \$100 of assessed value for the 1977-78 fiscal year, or (2) existed on January 1, 1978, or was thereafter created by a vote of the people, and is totally funded by revenues other than the proceeds of taxes as defined in subdivision (c) of Section 8 of Article XIII B of the California Constitution.

If a special district levied, or had levied on its behalf, different property tax rates for the 1977-78 fiscal year depending on which area or zone within the district boundaries property was located, it shall be deemed not to have levied a secured property tax rate in excess of 12½ cents per \$100 of assessed value if the total revenue derived from the ad valorem property tax levied by or for the district for 1977-78, divided by the total amount of taxable assessed valuation within the district's boundaries for 1977-78, does not exceed .00125.

(g) "School district" means an elementary, high school, or unified school district.

(h) "Local jurisdiction" means a local agency, school district, community college district, or county superintendent of schools.

(i) As used in Section 2 and subdivision (b) of Section 3 of Article XIII B, "revenues" means all tax revenues and the proceeds to a local jurisdiction or the state received from (1) regulatory licenses, user charges, and user fees to the extent that such proceeds exceed the costs reasonably borne by such entity in providing the regulation, product, or service, and (2) the investment of tax revenues as described in subdivision (i) of Section 8 of Article XIII B. For a local jurisdiction, revenues and appropriations shall also include

subventions, as defined in Section 7903, and with respect to the state, revenues and appropriations shall exclude such subventions.

(j) "Proceeds of taxes" shall not include proceeds to a local jurisdiction or the state from regulatory licenses, user charges, or user fees except to the extent that such proceeds exceed the costs reasonably borne by such entity in providing the regulation, product, or service.

7902. (a) For the 1980-81 fiscal year, the appropriations limit of the state and of each local jurisdiction shall be determined as follows:

(1) Multiply the total amount of appropriations subject to limitation of each such entity for the 1978-79 fiscal year by the lesser of the change in cost of living for the 1979 calendar year or the change in California per capita personal income for the 1978 calendar year, and multiply this product by the change in population of each such entity for the 1978 calendar year.

(2) Multiply the product determined pursuant to paragraph (1) by the lesser of the change in cost of living for the 1980 calendar year or the change in California per capita personal income for the 1979 calendar year, and multiply this product by the change in population of each entity for the 1979 calendar year. The resulting product, as adjusted for other changes required or permitted by Article XIII B of the California Constitution, shall be the appropriations limit of each entity for fiscal year 1980-81.

(b) For the 1981-82 fiscal year and each year thereafter, the appropriations limit of the state and of each local jurisdiction shall equal the appropriations limit for the prior fiscal year multiplied by the lesser of the change in cost of living for the calendar year in which the fiscal year begins or the change in California per capita personal income for the calendar year preceding the beginning of the fiscal year for which the appropriations limit is to be determined, the product multiplied by the change in population of the local jurisdiction for the calendar year preceding the beginning of the fiscal year for which the appropriations limit is to be determined, and adjusted for other changes required or permitted by Article XIII B of the California Constitution.

(c) For the purposes of this division, if a local agency's fiscal year begins on January 1, the agency shall base its appropriations limit on its appropriations subject to limitation for the 1979 calendar year. For such agency, the 1981 calendar year shall be the first year for which the appropriations limit shall apply. For purposes of the computations required by this section, such agency shall use the change in population, cost-of-living, and per capita personal income factors which it would have used had its fiscal year begun on the previous July 1.

7903. "State subventions" shall include only money received by a local agency from the state, the use of which is unrestricted by the statute providing the subvention.

7904. In no event shall the appropriation of the same proceeds of taxes be subject to the appropriations limit of more than one local jurisdiction or the state.

7905. Revenues to a local jurisdiction from regulatory licenses, user charges, or user fees may be aggregated if they are reasonably related.

7906. For school districts:

(a) "ADA" means a school district's second principal apportionment units of average daily attendance in the regular school year, excluding average daily attendance in summer programs, adult education programs, and regional occupational centers and programs.

(b) "Foundation program level" means:

(1) For the 1978-79 fiscal year, one thousand two hundred forty-one dollars (\$1,241) for elementary districts, one thousand three hundred twenty-two dollars (\$1,322) for unified districts, and one thousand four hundred twenty-seven dollars (\$1,427) for high school districts.

(2) For the 1979-80 fiscal year and each fiscal year thereafter, the levels specified in paragraph (1) increased by the lesser of the change in cost of living or California per capita personal income for the preceding calendar year.

(c) "Proceeds of taxes" shall be deemed to include subventions received from the state only if those subventions are for one of the following two purposes:

(1) Basic aid subventions of \$120 per ADA.

(2) Additional apportionments, if any, which, when added to the district's local revenues as defined in Section 42237 or 42238 of the Education Code, do not exceed the foundation program level for that type of district. Any apportionments which are provided in excess of the amount needed to increase a district's 1978-79 revenue limit per ADA by the lesser of the change in cost of living or California per capita personal income, shall not be considered to be proceeds of taxes for that school district.

(d) The remainder of the state apportionments, including special purpose apportionments and categorical aid subventions shall not be considered proceeds of taxes for a school district.

7907. For county superintendents of schools:

(a) "Proceeds of taxes" shall be deemed to include subventions received from the state only if those subventions are received for programs operated pursuant to:

(1) Subdivision (e) of Section 2500, Section 2500.1, Section 1982 for pupils specified in subdivision (c) of Section 1981, Section 14057 for programs operated pursuant to Sections 48633 and 48634, Section 1904 and subdivision (a) of Section 1908, Section 52570, or Section 1806 of the Education Code; or

(2) Section 1510, 2504, 2506, 2506.5, or 2509 of the Education Code.

(b) For programs identified in paragraph (1) of subdivision (a), an amount shall be calculated equal to the appropriations made for those programs from the proceeds of taxes for the 1978-79 fiscal year, adjusted for the 1979-80 and 1980-81 fiscal years by the lesser of the change in cost-of-living or change in California per capita personal income applicable to each year and by the percentage change in

average daily attendance in those programs for the 1979–80 and 1980–81 fiscal years.

(c) For all other programs operated by the county superintendent of schools, including, but not limited to, the programs identified in paragraph (2) of subdivision (a), an amount shall be calculated equal to the appropriations made for those programs from the proceeds of taxes for the 1978–79 fiscal year, adjusted for the 1979–80 and 1980–81 fiscal years by the lesser of the change in cost-of-living or change in California per capita personal income for each year and by the percentage change in population (as defined by subdivision (d) of Section 7901) for all the districts in the county for the 1979–80 and 1980–81 fiscal years.

(d) The sum of the amounts calculated in subdivisions (b) and (c) shall be the appropriations limit for the county superintendent for the 1980–81 fiscal year.

(e) For the 1981–82 fiscal year and each year thereafter, the appropriations limit for the prior year shall be adjusted by the appropriate average daily attendance and the lesser of the change in cost-of-living or California per capita personal income.

(f) State apportionments to county superintendents in excess of the amounts in (d) or (e) shall not be considered proceeds of taxes for a county superintendent of schools.

7908. For community college districts:

(a) As used in this section, “ADA” means the annual average daily attendance reported for students attending the community college district during the fiscal year.

(b) “Proceeds of taxes” shall be deemed to include subventions from the state only if those subventions, when added to the district’s local resources, as defined in items (2) and (3) of subdivision (a) of Section 84904 of the Education Code, do not exceed:

(1) For the 1978–79 fiscal year, the lesser of the statewide average revenues or the actual revenues received per ADA, as defined in paragraph (1) of subdivision (c) of Section 84700 of the Education Code, multiplied by the ADA in the district for the 1978–79 fiscal year.

(2) For the 1979–80 fiscal year and each fiscal year thereafter, the amount specified in paragraph (1) adjusted by the lesser of the change in cost-of-living or California per capita personal income for the preceding calendar year and the percentage change in the district’s ADA for that fiscal year.

(c) The remainder of state apportionments, including special purpose apportionments and categorical aid subventions, shall not be considered proceeds of taxes for a community college district.

7909. No later than May 1 of each year, the Department of Finance shall notify each local jurisdiction of the change in the cost-of-living or change in California per capita income, whichever is less, and population for each local jurisdiction for the prior calendar year.

7910. Each year the governing body of each local jurisdiction shall, by resolution, establish its appropriations limit for the following fiscal year pursuant to Article XIII B at a regularly scheduled

meeting or noticed special meeting. Fifteen days prior to such meeting documentation used in the determination of the appropriations limit shall be available to the public. The determination of the appropriations limit is a legislative act.

Any judicial action or proceeding to attack, review, set aside, void, or annul the action of the governing body taken pursuant to this section for the 1980–81 fiscal year shall be commenced within 60 days of the effective date of the resolution or the effective date of the act which added this section to the Government Code, whichever date is later.

For the 1981–82 fiscal year and each fiscal year thereafter, any judicial action or proceeding to attack, review, set aside, void, or annul the action of the governing body taken pursuant to this section shall be commenced within 45 days of the effective date of the resolution.

All courts wherein such actions are or may be hereafter pending, including any court reviewing such action on appeal from the decision of a lower court, shall give such actions preference over all other civil actions therein, in the manner of setting the same for hearing or trial and in hearing the same to the end that all such actions shall be quickly heard and determined.

7911. For the purposes of Section 2 of Article XIII B, a local jurisdiction may return excess revenues by granting a tax credit or refund, by providing a temporary suspension of tax rates or fee schedules, or by any other means consistent with the intent of that section. The determination by the governing body of such entity of the means by which such excess revenues are to be returned is a legislative act.

Judicial review of such determination may be obtained only by a proceeding for a writ of mandate which shall be brought within 30 days after the governing body's determination.

All courts wherein such actions are or may be hereafter pending, including any court reviewing such action on appeal from the decision of a lower court, shall give such actions preference over all other civil actions therein, in the manner of setting the same for hearing or trial and in hearing the same, to the end that all such actions shall be quickly heard and determined.

7912. Each year, the Governor shall include in the budget as submitted to the Legislature an estimate of the state's appropriations limit for the budget year. This estimate shall be subject to the budget process, and shall be established in the Budget Bill.

7913. For purposes of subdivision (b) of Section 3 of Article XIII B of the California Constitution, the financial responsibility of providing services is transferred in whole or in part from other revenues of an entity of government to proceeds from regulatory licenses, user charges, or user fees only when the dollar amount allocated from other revenues of a local jurisdiction or the state to the provision of such services is decreased.

SEC. 3. The Legislature finds and declares that Article XIII B of the California Constitution is intended to provide certain limitations and controls on government spending at all levels of government in

the state, but these restrictions are intended to be applied in a reasonable and practical way so as to permit flexibility in meeting the constantly changing conditions and needs of the people for governmental services.

By way of example, the California Constitution requires that the Legislature provide for a system of public schools and the courts of this state have held that a method of financing this public school system which depends substantially on local property taxes with resultant wide disparities in school revenue violates constitutional provisions guaranteeing equal protection of the laws. If Article XIII B were construed to require that all money expended by a local school district was required to be included within its appropriations subject to limitation, attempts to accommodate each of these separate demands of the California Constitution could be substantially frustrated.

The Legislature further finds and declares, accordingly, that equalization of the financial capabilities of school districts is a matter of statewide interest and concern and that state money provided to school districts to achieve this end is properly excluded from "state subventions" to local school districts as that term is used in Article XIII B of the California Constitution.

Similarly, the various categorical aid programs provided by the state are provided as a matter of statewide public policy. The changing character of children and neighborhoods and the resultant changing needs of local school districts require flexibility in providing these programs which can only be achieved by characterizing these programs as state programs, thereby excluding state support for these programs from state subventions to local school districts.

The Legislature finds and declares that the provisions of this act provide for the implementation of Article XIII B of the California Constitution in a manner which is entirely consistent with the intent of that article and the voters who adopted it, which accommodates competing constitutional demands, and which permits reasonable and practical methods of satisfying the future changing needs of this state.

SEC. 4. A local jurisdiction which has established an appropriations limit prior to the effective date of this act shall nevertheless be governed by the provisions of this act.

SEC. 5. 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.

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## CHAPTER 1206

An act to amend Section 2032 of the Code of Civil Procedure, and to amend Sections 5276.1 and 6306 of the Welfare and Institutions Code, relating to psychologists.

[Approved by Governor September 27, 1980. Filed with  
Secretary of State September 29, 1980 ]

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

SECTION 1. Section 2032 of the Code of Civil Procedure is amended to read:

2032. (a) In an action in which the mental or physical condition or the blood relationship of a party, or of an agent or a person in the custody or under the legal control of a party, is in controversy, the court in which the action is pending may order the party to submit to a physical or mental or blood examination by a physician, or to submit to a mental examination by a licensed clinical psychologist who has a doctoral degree in psychology and at least 5 years of postgraduate experience in the diagnosis and treatment of emotional and mental disorders, or to produce for such examination his agent or the person in his custody or legal control. The order may be made only on motion for good cause shown and upon notice to the person to be examined and to all parties and shall specify the time, place, manner, conditions, and scope of the examination and the person or persons by whom it is to be made.

(b) (1) If requested by the party against whom an order is made under subdivision (a) or the person examined, the party causing the examination to be made shall deliver to him a copy of a detailed written report of the examining physician or licensed clinical psychologist setting out his findings and conclusions, together with like reports of all earlier examinations of the same condition. After such request and delivery the party causing the examination to be made shall be entitled upon request to receive from the party or persons examined a like report of any examination, previously or thereafter made, of the same condition. If the party or person examined refuses to deliver such report the court on motion and notice may make an order requiring delivery on such terms as are just, and if a physician or clinical psychologist fails or refuses to make such a report the court may exclude his testimony if offered at the trial.

(2) By requesting and obtaining a report of the examination so ordered or by taking the deposition of the examiner, the party against whom an order is made under subdivision (a) of this section or the person examined waives any privilege he may have in that action or any other involving the same controversy, regarding the testimony of every other person who has examined or may thereafter examine him in respect of the same condition.

(3) Unless otherwise agreed, the provisions of paragraphs (1) and (2) shall be applicable in cases where an examination is made pursuant to stipulation.

(c) Service upon a party of any notice, motion or order made 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. 2. Section 5276.1 of the Welfare and Institutions Code is amended to read:

5276.1. The person requesting release may, upon advice of counsel, waive the presence at the evidentiary hearing of the physician, licensed psychologist who meets the requirements of the first paragraph of Section 5251, or other professional person who certified the petition under Section 5251 and of the physician, or licensed psychologist who meets the requirements of the second paragraph of Section 5251, providing intensive treatment. In the event of such a waiver, such physician, licensed psychologist, or other professional person shall not be required to be present at the hearing if it is stipulated that the certification and records of such physicians, licensed psychologists, or other professional persons concerning the mental condition and treatment of the person regarding release will be received in evidence.

SEC. 3. Section 6306 of the Welfare and Institutions Code is amended to read:

6306. The court shall refer the matter to the probation officer, along with a copy of the certification accompanied by the certifying court's statement, and the name and address of each psychiatrist or clinical psychologist appointed pursuant to Section 6307, to investigate and report to the court within a specified time, upon the circumstances surrounding the crime and the prior record and history of the person. The report shall include the criminal record, if any, of the person, obtained from the State Bureau of Criminal Identification and Investigation. The probation officer shall furnish to the psychiatrists and clinical psychologists pertinent information concerning the circumstances surrounding the crime and the prior record and history of the person.

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## CHAPTER 1207

An act to add Section 11476.2 to the Welfare and Institutions Code, relating to child support.

[Approved by Governor September 27, 1980 Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. Section 11476.2 is added to the Welfare and Institutions Code, to read:

11476.2. Upon request of the custodial parent, the county department shall provide the information on the amount of child support paid by the absent parent. The custodial parent shall be notified that this information is available.

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.

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## CHAPTER 1208

An act to amend Sections 15102, 15106, 15725, 15729, 15737, 16070, 16071, 16082, 16084, 16085, 16086, 16302, 16330.5, 16335, 16336, 16339, 17320, 19525, and 41351 of, to repeal Sections 1705, 1806, 1856, 1886, 1887, 1888, 2006, 2007, 2008, 2520, 8330, 19170, 37109, 41203, 41204, 41205, 41760.5, 41761, 41761.3, 41761.5, 41762, 41763, 41764, 41765, 41766, 41766.5, 41767, 41767.5, 41768, 41769, 41770, 41771, 41772, 41773, 41812, 41813, 41814, 41840, 42202, 42402, 42403, 42404, 42405, 42406, 42420, 42421, 42500, 42520, and 43001 of, the Education Code, to add Section 24 to the Government Code, and to amend Sections 227, 437, 533, 534, 731, 2237, 2263.4, 2272, and 38202 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 27, 1980. Filed with  
Secretary of State September 29, 1980]

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

SECTION 1. Section 1705 of the Education Code is repealed.

SEC. 2. Section 1806 of the Education Code is repealed.

SEC. 3. Section 1856 of the Education Code is repealed.

SEC. 4. Section 1886 of the Education Code is repealed.

SEC. 5. Section 1887 of the Education Code is repealed.

SEC. 6. Section 1888 of the Education Code is repealed.

SEC. 7. Section 2006 of the Education Code is repealed.

SEC. 8. Section 2007 of the Education Code is repealed.

SEC. 9. Section 2008 of the Education Code is repealed.

SEC. 10. Section 2520 of the Education Code is repealed.

SEC. 11. Section 8330 of the Education Code is repealed.

SEC. 12. Section 15102 of the Education Code is amended to read:

15102. The total amount of bonds issued shall not exceed 5 percent, except beginning with the 1981-82 fiscal year the amount shall not exceed 1.25 percent, of the taxable property of the district as shown by the last equalized assessment of the county or counties in which the district is located, and as modified pursuant to Section 41201 or 84201.

SEC. 13. Section 15106 of the Education Code is amended to read:

15106. Any unified school district may issue bonds not to exceed 10 percent, except beginning with the 1981-82 fiscal year the amount shall not exceed 2.5 percent, of the taxable property of the district

as shown by such equalized assessment of the county or counties in which the district is located.

In computing the outstanding bonded indebtedness of any unified school district for all purposes of this section, except as provided in subdivision (b) of this section, any outstanding bonds shall be deemed to have been issued for elementary school purposes, and high school purposes, respectively, in the respective amounts that the proceeds of the sale of such outstanding bonds, excluding any premium and accrued interest received on said sale, were or have been allocated by the governing board of such unified school district to each of said purposes respectively.

(a) For the purposes of the State School Building Aid Law of 1952 with respect to applications for apportionments and apportionments filed or made prior to September 15, 1961, and to the repayment thereof, Chapter 6 (commencing with Section 15700) of this part, inclusive, only, any unified school district shall be considered to have a bonding capacity in the amount permitted by law for an elementary school district and a bonding capacity in the amount permitted by law for a high school district.

(b) For purposes of computing the bonding capacity of a school district under the preceding subdivisions of this section, the taxable property of the district as shown by the last equalized assessment of the county shall be modified pursuant to Section 41201 or 84201.

SEC. 14. Section 15725 of the Education Code is amended to read:

15725. No apportionment shall be made to a school district for any grade level if the estimated cost of the project, as approved by the Director of General Services, is (1) an amount which would result in an apportionment to the district exceeding the amount authorized at the district election held under Section 15721, or (2) an amount which if raised by the issuance and sale of bonds of the district running for 25 years bearing the current going rate of interest as determined by the board and the principal of which is payable in 25 equal annual payments, would require the levy of a tax under Section 15250 upon property in the district which would, when added to the tax actually being levied upon property in the district for the grade level as determined by the Director of General Services under that section, amount to less than thirty cents (\$0.30) on each one hundred dollars (\$100) of assessed valuation of property in the district during the next fiscal year. Beginning in 1981-82, the amount shall be the levy of a tax which would amount to less than 0.075 percent of full valuation of property in the district during the next fiscal year.

At the time the board makes an apportionment, it shall, with the approval of the Director of General Services, fix the interest to be paid by the district on the sum apportioned to it at a rate equal to the effective rate paid by the state upon the bonds sold from the proceeds of which the apportionment is made, giving effect to the price at which the bonds are sold and the premium, if any, paid thereon, adjusted to the next highest one-eighth of 1 percent, to cover the cost of sale and issuance of the bonds and costs of

administration, to be compounded annually through the 30th day of June of each year.

SEC. 15. Section 15729 of the Education Code is amended to read:

15729. The following definitions apply to the computations and determinations required to be made under Sections 15730, 15732, and 15733, and they apply with respect to each grade level of a district for which grade level an apportionment has become final during any preceding fiscal year.

(a) "Forty-cent tax amount" means the amount that would be produced by a tax of forty cents (\$0.40) on each one hundred dollars (\$100) of assessed valuation, to and including 1980-81 fiscal year. For the 1981-82 fiscal year and thereafter, the tax shall be 0.10 percent of the full valuation. This tax amount shall exclude the assessed valuation of solvent credits and other intangible property, for the current fiscal year within the district;

(b) "Thirty-cent tax amount" means the amount that would be produced by a tax of thirty cents (\$0.30) on each one hundred dollars (\$100) of such assessed valuation to and including the 1980-81 fiscal year. For 1981-82 and thereafter, the tax shall be 0.075 percent of such full valuation: and

(c) "Ten-cent tax amount" means the amount that would be produced by a tax of ten cents (\$0.10) on each one hundred dollars (\$100) of such assessed valuation to and including the 1980-81 fiscal year. For the 1981-82 fiscal year and thereafter, the tax shall be 0.025 percent of the full value.

(d) "Eligible bonded debt service" means the amount raised and to be raised by the district during the current fiscal year for the repayment of principal and interest on the portion of the bonded indebtedness of the district that was incurred for each such grade level prior to the date of the first final apportionment for such grade level to said district under the provisions of this chapter, computed as provided in Section 15730.

SEC. 16. Section 15737 of the Education Code is amended to read:

15737. (a) Upon request of the district, the Controller shall use in computing the "40-cent, 30-cent, and 10-cent tax amounts" under Section 15732 the difference between the total assessed valuation of property in a district as shown on the equalized assessment roll for the current fiscal year and the assessed valuation of property as shown on the equalized assessment roll for the current fiscal year, in excess of 2 percent of such total assessed valuation, with respect to which revenues of the district taxes levied in the 1954-1955 fiscal year, or thereafter, have been impounded by the county auditor pursuant to Section 14240. Beginning with the 1981-82 fiscal year, the amount in excess of 0.5 percent of the total assessed valuation shall be used in the computation. If such a request is received prior to August 1, 1955, with respect to the impounding of revenues of taxes levied during the 1954-1955 fiscal year, the Controller shall recompute the annual repayment of the district due during the 1955-1956 fiscal year on the basis of such reduced assessed valuation, and, on or before September 1, 1955, notify the officers and board referred to in Section 15741 of such recomputed annual repayment

for the 1955–1956 fiscal year, and of the recomputed amount to be deducted from the State School Fund apportionment to such district during the 1955–1956 fiscal year.

(b) Whenever, after July 1, 1955, the county auditor notifies the Superintendent of Public Instruction and the Controller of the release of impounded tax revenues to the school district, the Controller shall add to the annual repayment of the district, for the first fiscal year or second fiscal year next succeeding that in which such notification of release was made, that amount by which the annual repayment of the district for a previous fiscal year was reduced by reason of the exclusion of assessed valuation with respect to tax revenues impounded and thereafter released.

(c) The amount of annual repayment and deduction, increased or reduced as required by this section, shall be the amount deducted by the Controller for the purposes of Sections 15735, 15741, and 15742 for the fiscal year in which such increase or reduction occurs.

(d) If a request is received from a school district and an annual repayment reduced pursuant to subdivision (a), Section 15736 shall not apply with respect to any tax revenues to which subdivision (a) applies.

**SEC. 17.** Section 16070 of the Education Code is amended to read:

16070. The following definitions apply to the computation and determinations required to be made under Section 16072, 16074, and 16075, and they apply with respect to each grade level of a district for which grade level an apportionment has become final during any preceding fiscal year.

(a) “Forty-cent tax amount” means the amount that would be produced by a tax of forty cents (\$0.40) on each one hundred dollars (\$100) of assessed valuation, to and including 1980–81 fiscal year. For the 1981–82 fiscal year and thereafter, the tax shall be 0.10 percent of the full valuation. This tax amount shall exclude the full value of solvent credits and other intangible property, for the current fiscal year within the district;

(b) “Thirty-cent tax amount” means the amount that would be produced by a tax of thirty cents (\$0.30) on each one hundred dollars (\$100) of such assessed valuation to and including the 1980–81 fiscal year. For the 1981–82 fiscal year and thereafter, the tax shall be 0.075 percent of such full valuation; and

(c) “Ten-cent tax amount” means the amount that would be produced by a tax of ten cents (\$0.10) on each one hundred dollars (\$100) of such assessed valuation to and including the 1980–81 fiscal year. For the 1981–82 fiscal year and thereafter, the tax shall be 0.025 percent of the full value;

(d) “Eligible bonded debt service” means the amount raised and to be raised by the district during the current fiscal year for the repayment of principal and interest on the portion of the bonded indebtedness of the district that was incurred for each such grade level prior to the making of the first apportionment for such grade level to said district under the provisions of this chapter computed as provided in Section 16072 plus the amount of the annual repayment under Chapter 6 (commencing with Section 15700) of

this part, provided that for the purposes hereof the first apportionment made to a district for a grade level after all previous apportionments to said district for that grade level have been repaid in full, excluding apportionments made under Section 16039 and not combined with construction apportionments, shall be deemed to be the "first apportionment for such grade level."

SEC. 18. Section 16071 of the Education Code is amended to read:

16071. This section applies only to a unified school district filing an application on or after the effective date of this section for an apportionment for a grade level consisting of kindergarten, if any, and grades 1 to 12, inclusive, and the repayments required for apportionments made under such applications.

The following definitions apply to the computation and determinations required to be made under Sections 16072, 16074 and 16075, and they apply with respect to such grade level of a unified district for which grade level an apportionment has become final during any preceding fiscal year.

(a) "Forty-cent tax amount" means the amount that would be produced by a tax of eighty cents (\$0.80) on each one hundred dollars (\$100) of assessed valuation, excluding the assessed valuation of solvent credits and other intangible property, for the current fiscal year within the district. Beginning in the 1981-82 fiscal year, the tax shall be 0.20 percent of full valuation for the current fiscal year within the district;

(b) "Thirty-cent tax amount" means the amount that would be produced by a tax of sixty cents (\$0.60) on each one hundred dollars (\$100) of such assessed valuation to and including the 1980-81 fiscal year. For the 1981-82 fiscal year and thereafter, the tax shall be 0.15 percent of the full valuation; and

(c) "Ten-cent tax amount" means the amount that would be produced by a tax of twenty cents (\$0.20) on each one hundred dollars (\$100) of such assessed valuation to and including the 1980-81 fiscal year. For the 1981-82 fiscal year and thereafter, the tax shall be 0.05 percent of the full value.

(d) "Eligible bonded debt service" means the amount raised and to be raised by the district during the current fiscal year for the repayment of principal and interest on the portion of the bonded indebtedness of the district that was incurred for each such grade level prior to the making of the first apportionment for such grade level to said district under the provisions of this chapter computed as provided in Section 16072 plus the amount of the annual repayment under Chapter 6 (commencing with Section 15700) of this part.

If the unified district's first apportionment under this chapter was for a grade level consisting of kindergarten, if any, and grades 1 to 6, inclusive, grades 1 to 8, inclusive, grades 7 to 12, inclusive, grades 9 to 12, inclusive, or 7 to 10, inclusive, "eligible bonded debt service" means the amount raised and to be raised by the district during the current fiscal year for the repayment of principal and interest on the portion of the indebtedness that was incurred for elementary and

high school purposes prior to the making of such first apportionment under this chapter computed as provided in Section 16072 together with the amount of the annual repayment under Chapter 6 (commencing with Section 15700) of this part.

SEC. 19. Section 16082 of the Education Code is amended to read:

16082. (a) Upon request of the district, the Controller shall use in computing the "40-cent, 30-cent, and 10-cent tax amounts" under Section 16070 the difference between the total assessed valuation of property in a district as shown on the equalized assessment roll for the current fiscal year and the assessed valuation of property as shown on the equalized assessment roll for the current fiscal year, in excess of 2 percent of such total assessed valuation, with respect to which revenues of the district taxes levied in the 1954-1955 fiscal year, or thereafter, have been impounded by the county auditor pursuant to Section 14240. Beginning with the 1981-82 fiscal year, the difference in excess of 0.50 percent of the total assessed value shall be used in the computation. If such a request is received prior to August 1, 1955, with respect to the impounding of revenues of taxes levied during the 1954-1955 fiscal year, the Controller shall recompute the annual repayment of the district due during the 1955-1956 fiscal year on the basis of such reduced assessed valuation, and, on or before September 1, 1955, notify the officers and board referred to in Section 16089 of such recomputed annual repayment for the 1955-1956 fiscal year, and of the recomputed amount to be deducted from the State School Fund apportionment to such district during the 1955-1956 fiscal year.

(b) Whenever, after July 1, 1955, the county auditor notifies the Superintendent of Public Instruction and the Controller of the release of impounded tax revenues to the school district, the Controller shall add to the annual repayment of the district for the first fiscal year or second fiscal year next succeeding that in which such notification of release was made, that amount by which the annual repayment of the district for a previous fiscal year was reduced by reason of the exclusion of assessed valuation with respect to tax revenues impounded and thereafter released.

(c) The amount of annual repayment and deduction, increased or reduced as required by this section, shall be the amount deducted by the Controller for the purposes of Sections 16080, 16089, and 16090 for the fiscal year in which such increase or reduction occurs.

(d) If a request is received from a school district and an annual repayment reduced pursuant to subdivision (a) hereof, Section 16081 shall not apply with respect to any tax revenues to which subdivision (a) applies.

SEC. 20. Section 16084 of the Education Code is amended to read:

16084. If, on or before June 30th of any fiscal year, the governing board of any school district files a request with the State Controller for a deferment of the annual repayment due from such district during the next succeeding fiscal year for an apportionment received by the district pursuant to this chapter or Chapter 6 (commencing with Section 15700) of this part, and it is determined, in accordance

with this section, that the district is entitled to a deferment of all or part of such annual repayment, the deferment shall be made in accordance with such determination. The request for deferment, having once been filed with the State Controller, shall remain in effect each ensuing year, and the State Controller shall continue to compute and allow the deferment in accordance with this section each year, until such time as the governing board of the school district files a written request with the State Controller to discontinue the deferment.

As used in the preceding paragraph, "any school district" means a district which is liable for the repayment of the principal amount of apportionments made to the district under the provisions of Chapter 6 (commencing with Section 15700) of this part and which has received a conditional apportionment under this chapter.

The portion of the annual repayment to be deferred under this section shall be determined as follows:

There shall be computed the amount required to be raised by taxes on property within the district, during the fiscal year in which the annual repayment is to be deducted pursuant to Sections 15735 and 16080, for the payment of principal and interest on (a) any bonded indebtedness incurred for school purposes prior to the first conditional apportionment to the school district under this chapter, (b) any bonded indebtedness which was incurred as a condition to any apportionment under this chapter, and (c) any bonded indebtedness incurred, the proceeds of which were required to be contributed for the purposes for which an apportionment was made under this chapter. To this amount shall be added the amount required during such fiscal year, for the annual repayment of school building apportionments under Chapter 6 (commencing with Section 15700) of this part and under this chapter. The total of these amounts shall constitute the "basic tax amount."

If the applicant district is a unified district, the amount to be deferred shall be separately considered for each grade level thereof. For this purpose, the basic tax amount shall only include the amounts specified in the preceding paragraph required to be raised for the repayment of principal and interest on bonded indebtedness which was incurred for, or as a condition to receiving an apportionment for, or required by the board to be contributed for the purposes of, the grade level being considered, plus those amounts required for the annual repayment of apportionments made under Chapter 6 (commencing with Section 15700) of this part for such grade level. It is hereby declared that this paragraph is not intended as a change in the present law but rather as a declaration of existing law.

There shall be computed the amount which would be produced by a tax of forty-five cents (\$0.45) on each one hundred dollars (\$100) of assessed valuation of the district during such year, to be known as the "45-cent tax amount," except beginning with the 1981-82 fiscal year, the amount shall be produced by a tax of 0.1125 percent of the full value. The amount of the annual repayment to be deferred during the fiscal year in which the annual repayment is due shall be

the amount, if any, by which the basic tax amount exceeds the 45-cent tax amount. The amount deferred shall be added to the annual repayment for the next succeeding fiscal year.

On or before the last day of July of each fiscal year, the State Controller shall request the Director of General Services to, and the Director of General Services shall, determine and certify to the State Controller the amount of bonded debt service included in the "basic tax amount." On or before the third Monday in August of each fiscal year, the State Controller shall request the county auditor of each county to, and the county auditor of each county shall, determine and certify to the State Controller the current assessed valuation of property within each district which has filed a request for a deferment under this section.

Before the date on which the board of supervisors makes the levy of taxes for county purposes, the State Controller shall make the deferment determination required by this section for each district requesting a deferment, and, for each district which is entitled to a deferment, shall notify, in writing, the board of supervisors of the county, the governing board of the district, the county auditor, and the county superintendent of schools having jurisdiction over the district of the amount of the repayment of the district which is to be deferred under this section.

For the purposes of this section the "annual repayment" means the amount of the annual repayment of the district due in a fiscal year as determined pursuant to Section 15733 and Section 16075, plus the then unpaid deferred amount of any annual repayment due in any previous fiscal years. Any repayments by a district of a deferred amount shall be first applied to loans granted under Chapter 6 (commencing with Section 15700) of this part.

Notwithstanding any other provision of this chapter, if, at the end of the 30-year period provided in Section 15738 or Section 16083, as the case may be, there are any deferred amounts due in any previous fiscal year remaining unpaid, repayments shall continue to be made in the manner provided by this section during each fiscal year thereafter until the amounts are paid, or for an additional period of 10 years, whichever first occurs. At the expiration of the additional 10-year period the unpaid portion of the deferred amounts shall be canceled on the books of the State Controller, and the provisions of Section 15738 or Section 16083, as the case may be, shall thereupon become applicable thereto and the board shall execute a conveyance to the district as provided in Section 15739 or 16087, whichever is applicable.

SEC. 21. Section 16085 of the Education Code is amended to read:

16085. For purposes of computing, under Section 16084, the portion of the annual repayment to be deferred in the case of a unified school district which has applied for and received an apportionment under Section 16003, the "45-cent tax amount" shall be the amount produced by a tax of ninety cents (\$.90) on each one hundred dollars (\$100) of assessed valuation of the district during the

year, except beginning with the 1981-82 fiscal year the tax shall be 0.225 percent of the full value.

SEC. 22. Section 16086 of the Education Code is amended to read:

16086. The provisions of this section shall apply: (1) to any school district which has succeeded to and become vested with all duties, powers, purposes, jurisdiction, and responsibility with respect to a portion of an apportionment determined or redetermined to have been expended, or to be expendable, for property acquired or to be acquired by it, and which has become liable for a portion of the annual repayment of a portion of an apportionment, as provided in Section 16159; and (2) to any state-aided district a portion of the territory of which was transferred to a district described in (1), above, and in connection with which territory a portion of an apportionment made to such state-aided district has or will be expended for property acquired or to be acquired.

If, on or before June 30th of any fiscal year, the governing board of any such school district files a request with the State Controller for a deferment of the annual repayment due from such district during the next succeeding fiscal year for an apportionment received by the district pursuant to this chapter, and it is determined, in accordance with this section, that the district is entitled to a deferment of all or part of such annual repayment, the deferment shall be made in accordance with such determination. The request for deferment, once filed with the State Controller, shall remain in effect in each ensuing year, and the State Controller shall continue to compute and allow the deferment in accordance with this section each year, until such time as the governing board of the school district files a written request with the State Controller to discontinue the deferment.

The portion of the annual repayment to be deferred under this section shall be determined as follows:

There shall be computed the amount required to be raised by taxes on property within the district during the fiscal year in which the annual repayment is to be deducted pursuant to Section 16080, for the payment of principal and interest on: (a) that portion of the annual repayment and all other payments due the state under Section 16075 and other provisions of this chapter with respect to the portion of the apportionment for which the district has been determined to be liable under Section 16159; (b) any bonded indebtedness incurred for school purposes prior to the first conditional apportionment to the school district under this chapter; (c) any bonded indebtedness which was incurred as a condition to any apportionment under this chapter; and (d) any bonded indebtedness incurred, the proceeds of which were required to be contributed for the purposes for which an apportionment was made under this chapter. To this amount shall be added the amount required during such fiscal year, for the annual repayment of school building apportionments under this chapter. The total of these amounts shall constitute the "basic tax amount."

If the applicant district is a unified district, the amount to be

deferred shall be separately considered for each grade level thereof. For this purpose, the basic tax amount shall only include the amounts specified in the preceding paragraph required to be raised for the repayment of principal and interest on bonded indebtedness which was incurred for, or as a condition to receiving an apportionment for, or required by the board to be contributed for the purposes of, the grade level being considered, plus those amounts required for the annual repayment of apportionments made under this chapter for such grade level.

There shall be computed the amount which would be produced by a tax of forty cents (\$0.40) on each one hundred dollars (\$100) of assessed valuation of the district during such year, to be known as the "40-cent tax amount," except beginning with the 1981-82 fiscal year, the amount shall be produced by a tax of 0.10 percent of the full value of the district during such year. The amount of the annual repayment to be deferred during the fiscal year in which the annual repayment is due shall be the amount, if any, by which the basic tax amount exceeds the 40-cent tax amount. The amount deferred shall be added to the annual repayment for the next succeeding fiscal year.

On or before the last day of July of each fiscal year, the State Controller shall request the Director of General Services to, and the Director of General Services shall, determine and certify to the State Controller the amount of bonded debt service included in the "basic tax amount." On or before the third Monday in August of each fiscal year, the State Controller shall request the county auditor of each county to, and the county auditor of each county shall, determine and certify to the State Controller the current assessed valuation of property within each district which has filed a request for a deferment under this section.

Before the date on which the board of supervisors makes the levy of taxes for county purposes, the State Controller shall make the deferment determination required by this section for each district requesting a deferment, and, for each district which is entitled to a deferment, shall notify, in writing, the board of supervisors of the county, the governing board of the district, the county auditor, and the county superintendent of schools having jurisdiction over the district of the amount of the repayment of the district which is to be deferred under this section.

For the purposes of this section the "annual repayment" means the amount of the annual repayment of the district due in a fiscal year as determined pursuant to Section 16075, plus the then unpaid deferred amount of any annual repayment due in any previous fiscal years.

Notwithstanding any other provision of this chapter, if, at the end of the 30-year period provided in Section 16083 there are any deferred amounts due in any previous fiscal year remaining unpaid, repayments shall continue to be made in the manner provided by this section during each fiscal year thereafter until the amounts are paid, or for an additional period of 10 years, whichever first occurs.

At the expiration of the additional 10-year period the unpaid portion of the deferred amounts shall be canceled on the books of the State Controller, and the provisions of Section 16083 shall thereupon become applicable thereto and the board shall execute a conveyance to the district as provided in Section 16087.

SEC. 23. Section 16302 of the Education Code is amended to read:

16302. (a) On the basis of the benefits to be realized by the citizens of the City of Stockton and its environs, and particularly the Stockton Unified School District, as specified in Section 16301, the amount allocated and expended pursuant to this article shall be fully repaid with interest by the district to the state in such annual amounts and over such period as may be determined by the board, not to exceed 20 years from the date of the expenditure. Interest shall be paid at a rate determined by the board. The repayment to the state by the district shall be made from proceeds of a district tax levied in the manner prescribed in Section 52317, but at a rate on each one hundred dollars (\$100) of assessed valuation, except beginning with the 1981-82 fiscal year the rate shall be expressed as a percentage of value, in the district sufficient to make the payments required by the board, notwithstanding the limitations contained in Section 52317.

(b) The tax revenue referred to in subdivision (a) above shall be transferred by the County Auditor of San Joaquin County to the State Treasury for the credit of the State School Building Aid Fund in accordance with established regulations and procedures.

SEC. 24. Section 16330.5 of the Education Code is amended to read:

16330.5. Notwithstanding Section 39230 or anything to the contrary in this article, whenever the State Allocation Board determines that state funds are not available to make an apportionment for an otherwise eligible project in the amount computed pursuant to Section 16330, an application may be approved and an apportionment made for one dollar (\$1) only. In such instances the project may be financed by the applicant district using funds derived from a twenty-cent (\$0.20) tax levy provided by Section 39230 together with any other funds available to the district for such purposes. Such a tax levy shall be twenty cents (\$0.20) per one hundred dollars (\$100) of assessed value for years prior to the 1980-81 fiscal year and beginning in the 1981-82 fiscal year shall be 0.05 percent of the full value.

SEC. 25. Section 16335 of the Education Code is amended to read:

16335. Each district to which an apportionment or apportionments has been made under this article shall repay the principal amount of such apportionment or apportionments and the accrued interest thereon in 20 equal annual payments. The first payment shall be made in the second fiscal year following the year in which the apportionment is made. In any year prior to the 1980-81 fiscal year in which the equal annual repayment exceeds that amount which seventeen and one-half cents (\$.175) per one hundred dollars

(\$100) of assessed valuation for each grade level (i.e. elementary or high school) operated by the district would raise during the year of the computation, the repayment shall be reduced to the amount which the seventeen and one-half cents (\$.175) for each grade level would so raise. In any year, beginning in the 1981-82 fiscal year, in which the equal annual repayment exceeds that amount which 0.04375 percent of the full value for each grade level operated by the district would raise during the year of the computation, the repayment shall be reduced to the amount which the 0.04375 percent of the full value for each grade level would so raise. The amount of the reduction in computed repayment shall be canceled on the books of the State Controller. If more than one apportionment is made the annual amount payable shall be the sum of the amounts which would be payable on each amount if computed separately.

On or before the first day of January of each fiscal year the State Controller shall determine the annual repayment, if any, to be due from each district during the next succeeding fiscal year. The computation and collection procedures shall be in accordance with Sections 16080, 16089, and 16090.

SEC. 26. Section 16336 of the Education Code is amended to read:

16336. Notwithstanding any provisions of this article, any school district which has levied the entire amount permitted under Section 39230 and has declared the entire proceeds therefrom available as local matching funds for a particular project, but lacks sufficient matching funds for such project as required under this article, may file an application thereunder prior to January 1, 1974. Under such circumstances the board may increase the basic computed state matching ratio of assistance in such amount, which, when added to the sum of the entire proceeds of the levy permitted under Section 39230 and such other funds which in the opinion of the board is or can be made currently available for the project, including funds authorized by the electors from bonds or otherwise, would be necessary to construct minimum essential facilities for the project as determined by the board. Not more than forty-five million dollars (\$45,000,000) available for the purposes of this article may be apportioned for increases in the basic computed state matching ratio pursuant to this section. The source of the forty-five million dollars (\$45,000,000) apportioned for this purpose shall be thirty million dollars (\$30,000,000) previously appropriated for this purpose from the School Building Safety Fund by Chapter 500 of the Statutes of 1972, plus an additional fifteen million dollars (\$15,000,000) of bond funds remaining from the State School Building Aid Bond Law of 1966.

SEC. 27. Section 16339 of the Education Code is amended to read:

16339. Notwithstanding any provisions of this article or Section 16336 thereof to the contrary, any school district which lacks sufficient matching funds for a particular project or projects, as required under this article, may file an application and the board may approve a project or projects conditioned upon the district

levying, in the 1974-75 fiscal year, the entire twenty-cent (\$.20) tax rate per one hundred dollars (\$100) of assessed valuation permitted under Section 39230 or 81180 and applying the proceeds of such levy as local matching funds for such project or projects. Beginning in the 1981-82 fiscal year, the tax shall be 0.05 percent of full value.

Under such circumstances, provided such applicant district was not eligible to receive a grant under the provisions of Section 16337, the board may increase the basic computed state matching ratio of assistance in such amount, which, when added to the sum of the entire proceeds of the twenty-cent (\$.20) tax rate, except beginning in the 1981-82 fiscal year, the tax shall be 0.05 percent of full value, and such other funds which in the opinion of the board are or can be made currently available for the project or projects, would be necessary to construct minimum essential facilities for the project or projects as determined by the board. Not more than nineteen million dollars (\$19,000,000) of the proceeds of the sale of bonds authorized by Section 16310, may be apportioned pursuant to this section and in augmentation of the forty-five million dollars (\$45,000,000) made available under Section 16336.

SEC. 28. Section 17320 of the Education Code is amended to read:

17320. Each district to which an apportionment or apportionments has been made under this chapter shall repay a portion or all of the principal amount of such apportionment or apportionments and the accrued interest thereon in 30 equal annual payments, as shall be determined by the State Controller pursuant to this section. If more than one apportionment is made the annual amount payable shall be the sum of the amounts which would be payable on each apportionment if computed separately.

The State Controller shall determine the portion of the principal amount of the apportionment or apportionments made to each district to be repaid by the district by diminishing such principal amount by the product of the ratio which the assessed valuation of the district per unit of average daily attendance of pupils in the grades maintained by the district during the preceding fiscal year bears to the assessed valuation per unit of such average daily attendance in the same type of districts in the state and one-half of the principal amount of the apportionment or apportionments, except that the amount to be repaid shall not exceed the amount of the principal apportionment or apportionments.

The State Controller shall make the computation to determine the annual repayment due in the next fiscal year following the fiscal year in which the apportionment is made. In any year prior to the 1980-81 fiscal year in which the annual repayment exceeds the amount which may be raised by a three-cent (\$.03) tax rate per one hundred dollars (\$100) of assessed valuation in the district, the governing board of the school district shall so certify to the State Controller whereupon the State Controller shall grant a deferment of the annual repayment which is in excess of the amount that would be produced by a tax rate of three cents (\$.03) per one hundred dollars

(\$100) of assessed valuation of the district. In any year, beginning with the 1981-82 fiscal year, in which the annual repayment exceeds the amount which may be raised by a levy of 0.0075 percent of the full value in the district, the governing board of the school district shall so certify to the Controller whereupon the Controller shall grant a deferment of the annual repayment which is in excess of the amount that would be produced by a tax of 0.0075 percent of the full value of the district. The amount deferred shall be added to the annual repayment for the next succeeding fiscal year.

SEC. 29. Section 19170 of the Education Code is repealed.

SEC. 30. Section 19525 of the Education Code is amended to read: 19525. The total amount of bonds issued shall not exceed 5 percent of the assessed value of the property of the district, prior to the 1980-81 fiscal year and shall not exceed 1.25 percent of the assessed value of the district beginning after the 1981-82 fiscal year, as shown by the last equalized assessment roll of the county or counties in which the district is situated.

SEC. 31. Section 37109 of the Education Code is repealed.

SEC. 32. Section 41203 of the Education Code is repealed.

SEC. 33. Section 41204 of the Education Code is repealed.

SEC. 34. Section 41205 of the Education Code is repealed.

SEC. 35. Section 41351 of the Education Code is amended to read: 41351. The Superintendent of Public Instruction shall compute for each school district an amount, to be known as the district contribution, which would be produced if a tax of five cents (\$0.05) was levied on each one hundred dollars (\$100) of 100 percent of the assessed valuation in such district as shown by the last equalized assessment roll of the district for the years prior to the 1980-81 fiscal year and 0.0125 percent of the full value of the district beginning in the 1981-82 fiscal year, and the resulting sum was divided by the number of free and reduced-price lunches or breakfasts served by the district to needy pupils during the current fiscal year.

SEC. 36. Section 41760.5 of the Education Code is repealed.

SEC. 37. Section 41761 of the Education Code is repealed.

SEC. 38. Section 41761.3 of the Education Code is repealed.

SEC. 39. Section 41761.5 of the Education Code is repealed.

SEC. 40. Section 41762 of the Education Code is repealed.

SEC. 41. Section 41763 of the Education Code is repealed.

SEC. 42. Section 41764 of the Education Code is repealed.

SEC. 43. Section 41765 of the Education Code is repealed.

SEC. 44. Section 41766 of the Education Code is repealed.

SEC. 45. Section 41766.5 of the Education Code is repealed.

SEC. 46. Section 41767 of the Education Code is repealed.

SEC. 47. Section 41767.5 of the Education Code is repealed.

SEC. 48. Section 41768 of the Education Code is repealed.

SEC. 49. Section 41769 of the Education Code is repealed.

SEC. 50. Section 41770 of the Education Code is repealed.

SEC. 51. Section 41771 of the Education Code is repealed.

SEC. 52. Section 41772 of the Education Code is repealed.

SEC. 53. Section 41773 of the Education Code is repealed.

SEC. 54. Section 41812 of the Education Code is repealed.

SEC. 55. Section 41813 of the Education Code is repealed.

SEC. 56. Section 41814 of the Education Code is repealed.

SEC. 57. Section 41840 of the Education Code is repealed.

SEC. 61. Section 42202 of the Education Code is repealed.

SEC. 62. Section 42402 of the Education Code is repealed.

SEC. 63. Section 42403 of the Education Code is repealed.

SEC. 64. Section 42404 of the Education Code is repealed.

SEC. 65. Section 42405 of the Education Code is repealed.

SEC. 66. Section 42406 of the Education Code is repealed.

SEC. 67. Section 42420 of the Education Code is repealed.

SEC. 68. Section 42421 of the Education Code is repealed.

SEC. 69. Section 42500 of the Education Code is repealed.

SEC. 70. Section 42520 of the Education Code is repealed.

SEC. 71. Section 43001 of the Education Code is repealed.

SEC. 72. Section 24 is added to the Government Code, to read:

24. (a) For purposes of this code, "assessed value" means 25 percent of full value to, and including, the 1980-81 fiscal year, and 100 percent of full value for the 1981-82 fiscal year and fiscal years thereafter; and, tax rates shall be expressed in dollars, or fractions thereof, on each one hundred dollars (\$100) of assessed value to, and including, the 1980-81 fiscal year and as a percentage of full value for the 1981-82 fiscal year and fiscal years thereafter.

(b) Whenever this code requires comparison of assessed values, tax rates, or property tax revenues for different years, the assessment ratios and tax rates shall be adjusted as necessary so that the comparisons are made on the same basis, and the same amount of tax revenues would be produced, or the same relative value of an exemption or subvention will be realized regardless of the method of expressing tax rates or the assessment ratio utilized.

(c) For purposes of expressing tax rates on the same basis, a tax rate based on a 25 percent assessment ratio and expressed in dollars, or fractions thereof, for each one hundred dollars (\$100) of assessed value may be multiplied by a conversion factor of twenty-five hundredths of 1 percent to determine a rate comparable to a rate expressed as a percentage of full value; and, a rate expressed as a percentage of full value may be multiplied by a factor of 400 to determine a rate comparable to a rate expressed in dollars, or fractions thereof, for each one hundred dollars (\$100) of assessed value and based on a 25 percent assessment ratio.

SEC. 76. Section 227 of the Revenue and Taxation Code, as amended by Section 1 of Chapter 18 of the Statutes of 1980, is amended to read:

227. A documented vessel, as defined in Section 130, shall be assessed at 4 percent of its full cash value only if the vessel is engaged or employed exclusively:

(a) In the taking and possession of fish or other living resource of the sea for commercial purposes;

(b) In instruction or research studies as an oceanographic research vessel; or

(c) In carrying or transporting seven or more people for hire for commercial passenger fishing purposes.

The assessment provided for by subdivision (c) of this section shall apply to the 1980-81, 1981-82, and 1982-83 fiscal years and shall have no force or effect after January 1, 1983, unless a later enacted statute is chaptered on or before January 1, 1983, and extends such date.

SEC. 77. Section 437 of the Revenue and Taxation Code is amended to read:

437. Whenever the debt limit of a taxing agency is based wholly or in part on the assessed value of the agency, there shall be added to such assessed value the assessed valuation equivalents of revenue amounts certified pursuant to Section 27423 of the Government Code and distributed pursuant to Section 38906 of the Revenue and Taxation Code.

The assessed valuation equivalents for revenue amounts certified pursuant to Section 27423 of the Government Code and distributed pursuant to Section 38905 of the Revenue and Taxation Code shall be derived by multiplying such amounts by a factor of 100 and dividing the product by the secured tax rate for the prior year.

When computing the assessed value equivalents for the 1981-82 fiscal year, the rate used for the secured roll for the 1980-81 fiscal year shall be divided by four.

SEC. 78. Section 533 of the Revenue and Taxation Code is amended to read:

533. Assessments made pursuant to Article 3 (commencing with Section 501) of this chapter or pursuant to this article shall be entered on the roll prepared or being prepared in the assessment year when it is so discovered and, if this is not the roll for the assessment year in which it escaped assessment, the entry shall be followed with "Escaped assessment for year 19\_\_ pursuant to Sections \_\_\_\_\_ of the Revenue and Taxation Code."

If the assessments are made as a result of an audit which discloses that property assessed to the party audited has been incorrectly assessed either for a past tax year for which taxes have been paid and a claim for refund is not barred by Section 5097 or for any tax year for which the taxes are unpaid, the tax refunds resulting from the incorrect assessments shall be an offset against proposed tax liabilities, including accumulated penalties and interest, resulting from escaped assessments for any tax year covered by the audit.

Beginning with the 1981-82 fiscal year, assessment for the current and prior year shall be entered using a 100 percent assessment ratio and the tax rate for years prior to the 1981-82 fiscal year will be divided by four.

If such tax refunds exceed any proposed tax liabilities, including accumulated penalties and interest, the party audited shall be notified by the tax collector of the amount of the excess and of the fact that a claim for cancellation or refund may be filed with the

county as provided by Section 4986 or 5096. In the event that the assessment caused an excess payment of taxes and therefore resulted in an overpayment by the state for property tax relief as provided by Section 219, then subsequent subventions for property tax relief shall be reduced by the amount of such overpayment.

SEC. 78.5. Section 533 of the Revenue and Taxation Code is amended to read:

533. Assessments made pursuant to Article 3 (commencing with Section 501) of this chapter or pursuant to this article shall be entered on the roll for the current assessment year as defined in Section 118 and, if this is not the roll for the assessment year in which the property escaped assessment, the entry shall be followed with "Escaped assessment for year 19\_\_ pursuant to Sections \_\_\_\_\_ of the Revenue and Taxation Code."

If the assessments are made as a result of an audit which discloses that property assessed to the party audited has been incorrectly assessed either for a past tax year for which taxes have been paid and a claim for refund is not barred by Section 5097 or for any tax year for which the taxes are unpaid, the tax refunds resulting from the incorrect assessments shall be an offset against proposed tax liabilities, including accumulated penalties and interest, resulting from escaped assessments for any tax year covered by the audit.

Beginning with the 1981-82 fiscal year, assessment for the current and prior year shall be entered using a 100 percent assessment ratio and the tax rate for years prior to the 1981-82 fiscal year will be divided by four.

If such tax refunds exceed any proposed tax liabilities, including accumulated penalties and interest, the party audited shall be notified by the tax collector of the amount of the excess and of the fact that a claim for cancellation or refund may be filed with the county as provided by Section 5096 or 5096.7. In the event that the assessment caused an excess payment of taxes and therefore resulted in an overpayment by the state for property tax relief as provided by Section 219, then subsequent subventions for property tax relief shall be reduced by the amount of such overpayment.

SEC. 79. Section 534 of the Revenue and Taxation Code is amended to read:

534. Assessments made pursuant to Article 3 (commencing with Section 501) of this chapter or pursuant to this article shall be treated like, and taxed at the same rate applicable to, property regularly assessed on the roll on which it is entered, unless the assessment relates to a prior year and then the tax rate of the prior year shall be applied, except that the tax rate for years prior to the 1981-82 fiscal year shall be divided by four.

No such assessment shall be effective for any purpose, including its review, equalization and adjustment by the Board of Equalization, until the assessee has been notified thereof personally or by United States mail at his address as contained in the official records of the county assessor. Receipt of the assessee of a tax bill based on such

assessment shall suffice as such notice.

SEC. 80. Section 731 of the Revenue and Taxation Code is amended to read:

731. Each year between the first day of March and the first day of June, upon valuing the unitary property of an assessee, the board shall mail to the assessee, at its address as shown in the records of the board, a notice stating the amount of the assessed value of the assessee's unitary property. The notice shall advise the assessee of the date by which and the place where a petition for reassessment of the unitary property may be filed. The date shall not be less than 10 days from the date of the mailing of the notice.

SEC. 81. Section 2237 of the Revenue and Taxation Code is amended to read:

2237. (a) Notwithstanding any other provision of law, except as provided in subdivision (b), no local agency, school district, county superintendent of schools, or community college district shall levy an ad valorem property tax, other than that amount which is equal to the amount needed to make annual payments for the interest and principal on general obligation bonds or other indebtedness approved by the voters prior to July 1, 1978 or the amount levied pursuant to Part 10 (commencing with Section 15000) of Division 1 and Sections 39308, 39311, 81338, and 81341 of the Education Code. In determining the tax rate required for the purposes specified in this subdivision, the amount of the levy shall be increased to compensate for any allocation and payment of tax revenues required pursuant to subdivision (b) of Section 33670 and subdivision (d) of Section 33675 of the Health and Safety Code.

(b) A county shall levy an ad valorem property tax on taxable assessed value at a rate equal to four dollars (\$4) per one hundred dollars (\$100) of assessed value to and including the 1980-81 fiscal year. For 1981-82 fiscal year and thereafter, the tax shall be 1 percent of assessed value. The revenue from such tax shall be distributed, subject to the allocation and payment as provided in subdivision (d) of Section 33675 of the Health and Safety Code, to local agencies, school districts, county superintendents of schools, and community college districts in accordance with the provisions of Section 26912 of the Government Code.

SEC. 82. Section 2263.4 of the Revenue and Taxation Code is amended to read:

2263.4. Notwithstanding paragraph (2) of Section 2263, the maximum property tax rate which may be levied by, or on behalf of, a harbor district shall be the greater of three cents (\$.03) per one hundred dollars (\$100) of assessed valuation or the rate levied by, or on behalf of, the district for either the 1971-1972 or the 1972-1973 fiscal year, at the option of the governing body of the district. If a district operates on a calendar year, the maximum rate which may be levied pursuant to this subdivision shall be the greater of three cents (\$.03) per one hundred dollars (\$100) of assessed valuation or that levied in either calendar 1972 or calendar 1973, at the option of

the governing body of the district. Beginning in the 1981-82 fiscal year, the maximum property tax rate which may be levied shall be the greater of 75/10,000 of 1 percent of assessed valuation or the rate levied by, or on behalf of, the district for either the 1971-72 or the 1972-73 fiscal year, at the option of the governing body of the district. If a district operates on a calendar year, the maximum rate which may be levied pursuant to this section shall be greater of 75/10,000 of 1 percent of assessed valuation or that levied in either calendar year 1972 or calendar year 1973, at the option of the governing body of the district.

In addition, if the voters of a district, pursuant to provisions of the enabling statute under which the district is organized, have authorized an additional rate, such augmented rate shall be the maximum property tax rate.

SEC. 83. Section 2273 of the Revenue and Taxation Code is amended to read:

2273. (a) A local agency may levy, or have levied on its behalf, a rate in addition to the maximum property tax rate established pursuant to this chapter (commencing with Section 2201) for the purpose of meeting the costs of written contractual obligations, leases and agreements, including determinations made pursuant to the Meyers-Milias-Brown Act (Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of the Government Code), which were entered into, or authorized by the governing body or by the voters of such agency, prior to January 1, 1973, if:

(1) The local agency incurred no costs or budgeted no expenditures under the contractual obligation or agreement during the 1972-1973 fiscal year but will incur such costs in subsequent fiscal years, or

(2) The local agency did incur costs pursuant to the contractual obligation or agreement in the 1972-1973 fiscal year, but in subsequent fiscal years such costs increase in an amount which exceeds either the growth rate in the local agency's assessed value or its growth rate in population and cost of living as determined pursuant to Section 2212 and Sections 2227 or 2228.

(b) The additional rate which may be levied to meet costs described in paragraph (1) of subdivision (a) shall be that rate in each fiscal year which produces the amount of revenue needed to meet the actual annual costs of the contract or obligation.

(c) The additional rate which may be levied in each fiscal year to meet costs described in paragraph (2) of subdivision (a) shall be that rate which produces an amount of revenue equal to the difference between (i) the cost of the contract for the current year and (ii) the adjusted base year cost of the contract. Such adjusted base year cost shall be determined as follows: (i) for the 1973-1974 fiscal year, the actual cost of the contract in the 1972-1973 fiscal year shall be multiplied by either the percentage increase in population and the cost of living or the percentage increase in assessed value which is applicable to the local agency, whichever is greater. The

product of such multiplication plus the actual cost of the contract during the 1972-1973 fiscal year shall be the adjusted base cost of the contract; (ii) for each subsequent fiscal year, the adjusted base year cost of the contract of the prior year shall be multiplied by either the percentage increase in the cost of living and population or the percentage increase in assessed value which is applicable to the local agency, whichever is greater. The product of such multiplication plus the adjusted base year cost of the contract in the prior fiscal year shall be the adjusted base cost of the contract in the current year. For the 1981-82 fiscal year, the assessed value for the 1980-81 fiscal year shall be multiplied by four prior to calculating the percentage increase in assessed value.

(d) No local agency may levy an additional rate as provided in this section after the termination of the contractual obligation or agreement described in subdivision (a); provided that a local agency may continue to levy an additional rate equal to the rate levied for the entire last year of such a contract or agreement if (i) the local agency enters a new contractual obligation which provides for substantially similar kinds of services or goods as the terminated contract, and (ii) the new contractual obligation concerns personal services, consumable goods or personal property and does not in any manner involve real property as defined in Section 104.

The additional property tax rate authorized by this section shall apply (i) to contractual obligations arising from the exercise of options and (ii) to contractual obligations arising from contingent promises. Except as specifically provided by this section, the additional property tax rate authorized by this section does not apply to contractual obligations incurred by mutual agreement of the contracting parties after January 1, 1973.

SEC. 84. Section 38202 of the Revenue and Taxation Code is amended to read:

38202. During December, 1978, and December of each subsequent year, after public hearings, the board shall adjust the yield tax rate to the nearest one-tenth of 1 percent in the same proportion that the average rate of general property taxation in the rate adjustment counties in the current tax year differs from the average rate of general property taxation in the rate adjustment counties in the preceding tax year. The board shall compute the average rate of general property taxation in the rate adjustment counties by (a) adding the county, city, school district, and other general taxes, but not the special taxes on intangibles, aircraft, baled cotton or any other property, which is subject to a uniform statewide tax rate, nor special assessments, and (b) dividing the amount obtained by the total assessed valuation in the rate adjustment counties, exclusive of the homeowners' and business inventory exemptions, as shown by the county tax rolls for the same year.

"Total assessed valuation," as used in this section, does not include the assessment of property which is subject to a uniform statewide tax rate.

“Special assessment” as used in this section, means any amount levied solely against land or land and improvements.

When calculating the yield tax rate for the 1981–82 fiscal year, the 1980–81 average rate of general property taxation should first be divided by four.

SEC. 85. It is the intent of the Legislature, if this bill and Assembly Bill 2479 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 533 of the Revenue and Taxation Code, and this bill is chaptered after Assembly Bill 2479, that Section 533 of the Revenue and Taxation Code, as amended by Section 15 of Assembly Bill 2479, be further amended on the effective date of this act in the form set forth in Section 78.5 of this act to incorporate the changes in Section 533 proposed by this bill. Therefore, if this bill and Assembly Bill 2479 are both chaptered and become effective on or before January 1, 1981, and Assembly Bill 2479 is chaptered before this bill and amends Section 533, Section 78.5 of this act shall become operative on the effective date of this act and Section 78 of this act shall not become operative.

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## CHAPTER 1209

An act to add Section 1038 to the Code of Civil Procedure, relating to litigation costs.

[Approved by Governor September 27, 1980. Filed with  
Secretary of State September 29, 1980 ]

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

SECTION 1. Section 1038 is added to the Code of Civil Procedure, to read:

1038. (a) In any civil proceeding under the California Tort Claims Act or for indemnity or contribution in any civil action, the fact finder, upon motion of the defendant or cross-defendant, shall, at the time of the granting of any summary judgment or nonsuit dismissing the moving party other than the plaintiff, petitioner, cross-complainant, or intervenor, determine whether or not the plaintiff, petitioner, cross-complainant, or intervenor brought the proceeding with reasonable cause and in the good faith belief that there was a justiciable controversy under the facts and law which warranted the filing of the complaint, petition, cross-complaint, or complaint in intervention. If the fact finder should determine that the proceeding was not brought in good faith and with reasonable cause, an additional issue shall be decided as to the defense costs reasonably and necessarily incurred by the party or parties opposing the proceeding, and the court shall render judgment in favor of that party in the amount of all reasonable and necessary defense costs.

(b) “Defense costs,” as used in this section, shall include

reasonable attorneys' fees, expert witness fees, the cost of services of experts, advisers, and consultants in defense of the proceeding, and where reasonably and necessarily incurred in defending the proceeding. The court may direct a separate trial at the conclusion of the proceeding on the issue of defense costs.

(c) This section shall be applicable only on motion made prior to the discharge of the jury or entry of judgment, and any party requesting the relief pursuant to this section waives any right to seek damages for malicious prosecution. Failure to make such motion shall not be deemed a waiver of the right to pursue a malicious prosecution action.

(d) This section shall only apply if the defendant or cross-defendant has made a motion for summary judgment or nonsuit and the motion is granted.

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## CHAPTER 1210

An act to amend Sections 5681, 7091, 9580, 9582, and 9583 of the Business and Professions Code, relating to business and professions, and making an appropriation therefor.

[Approved by Governor September 27, 1980. Filed with  
Secretary of State September 29, 1980 ]

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

SECTION 1. Section 5681 of the Business and Professions Code is amended to read:

5681. The amount of fees prescribed by this chapter is that fixed by the following schedule:

(a) The application fee for examination shall be fixed by the board in such amount as it determines is reasonably necessary to provide sufficient funds to carry out the purpose of this chapter, but not to exceed one hundred twenty-five dollars (\$125).

(b) The fee for an original 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 is issued less than one year before the date on which it will expire, then the fee is an amount equal to 50 percent 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 fee for a temporary certificate shall be fixed by the board in an amount not to exceed fifty dollars (\$50).

(d) The fee for a duplicate certificate shall be fixed by the board in an amount not to exceed twenty-five dollars (\$25).

(e) The renewal fee shall be fixed by the board in such amount as it determines is reasonably necessary to provide sufficient funds to carry out the purpose of this chapter, but not to exceed one hundred fifty dollars (\$150).

(f) The penalty for failure to notify the board of a change of address within 30 days from an actual change in address shall be fixed by the board in an amount not to exceed twenty-five dollars (\$25).

(g) The delinquency fee shall not exceed twenty-five dollars (\$25).

(h) The fee for a branch office shall be fixed by the board in an amount not to exceed twenty-five dollars (\$25).

SEC. 2. 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 for a period in excess of three years 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.

SEC. 3. Section 9580 of the Business and Professions Code is amended to read:

9580. The amount of the fees prescribed by this chapter relating to clothes cleaning establishment licenses and clothes dyeing establishment licenses is that fixed by the board in accordance with the following schedule:

(a) The fee for an application for examination shall be twenty dollars (\$20).

(b) The renewal fee shall not exceed two hundred dollars (\$200).

(c) The delinquency fee is twenty-five dollars (\$25).

(d) The initial license fee shall not exceed two hundred dollars (\$200) if the license is issued not less than one year before the date on which it will expire, and shall be one-half of the initial fee if the license is issued less than one year before the date on which it will expire. The board may, by appropriate regulation, provide for the waiver or refund of the initial license fee where the license is issued less than 45 days before the date on which it will expire.

SEC. 4. Section 9582 of the Business and Professions Code is amended to read:

9582. The amount of the fees prescribed by this chapter relating

to shop licenses shall be fixed by the board as follows:

(a) The fee for an application for examination is twenty dollars (\$20).

(b) Except as provided in subdivision (e) of this section, the renewal fee shall not exceed sixty dollars (\$60).

(c) The delinquency fee is six dollars (\$6).

(d) The initial license fee shall not exceed sixty dollars (\$60) if the license is issued not less than one year before the date on which it will expire, and shall be one-half of the initial fee if the license is issued less than one year before the date on which it will expire. The board may, by appropriate regulation, provide for the waiver or refund of the initial license fee where the license is issued less than 45 days before the date on which it will expire.

(e) The renewal fee for an agency license is two dollars (\$2) if at the time the licensee applies for renewal of his license, he establishes by proof satisfactory to the board that the gross receipt from his agency business during the preceding 12-month period did not exceed one hundred fifty dollars (\$150).

SEC. 5. Section 9583 of the Business and Professions Code is amended to read:

9583. The amount of the fees prescribed by this chapter relating to certificates of registration shall be fixed by the board as follows:

(a) The fee for an application for examination is twenty dollars (\$20).

(b) The renewal fee shall not exceed twenty-five dollars (\$25).

(c) The delinquency fee is two dollars (\$2).

(d) The initial certificate fee shall not exceed twenty-five dollars (\$25) if the certificate is issued not less than one year before the date on which it will expire, and shall be one-half of the initial fee if the certificate is issued less than one year before the date on which it will expire. 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.

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## CHAPTER 1211

An act relating to health care, and making an appropriation therefor.

[Approved by Governor September 27, 1980. Filed with  
Secretary of State September 29, 1980 ]

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

SECTION 1. The Legislature hereby finds and declares that the State of California must adopt a clear Medi-Cal program policy of promoting, where possible, restorative and rehabilitative treatment for infirm, nonterminal Medi-Cal eligible persons residing in skilled

nursing and intermediate care facilities which are licensed by the state, in order to encourage individuals to remain within their communities and to maintain, to the extent practicable, their ability to live independently in their own residences or in a family living arrangement. In addition, it is imperative that the Legislature have an informed understanding of the special needs of Medi-Cal long-term care patients who will live for an extended period of time in skilled nursing or intermediate care facilities, or Medi-Cal long-term care patients who are terminally ill, in order to ensure quality treatment and dignity of life for them. The Legislature further finds and declares that a state study must be undertaken in specified areas to determine the level of restorative and rehabilitative treatment being provided, the appropriate classification and placement of long-term care patients, and the reasonableness of the Medi-Cal program's rate-setting methodology for long-term care services, so that an adequate information base is established, from which recommendations for implementing positive reform in the area of Medi-Cal program long-term care services may be formulated. Therefore, the Legislature hereby finds and declares that the State Department of Health Services should continue in its effort to study the treatment provided to Medi-Cal patients in skilled nursing and intermediate care facilities.

**SEC. 2.** The State Department of Health Services shall continue to conduct a study for the purposes specified in Section 1 of this act. This study shall take into account the varying health and social needs of Medi-Cal patients in skilled nursing and intermediate care facilities who may return to independent living in the community, or who will spend an extended time period in facilities, or who are terminally ill, and shall include, but not be limited to, the following:

(a) The quality, effectiveness, cost, and types of treatment provided to persons described in Section 1 of this act, including, but not limited to the following:

(1) The extent to which restorative and rehabilitative treatment is being provided and the extent to which it should be improved or expanded with the goal of promoting independent living or maximizing patient functioning within the institutional setting.

(2) The extent to which drugs are used to promote restorative and rehabilitative treatment and independent living or maximizing patient functioning within the institutional setting.

(3) The appropriateness of patient-staff ratios and staff compensation in skilled nursing and intermediate care facilities.

(4) The quality of care provided by physicians, including, but not limited to, the length of time spent with patients and the type of care and follow-up provided.

(5) The costs of the different types of treatment.

(6) The effectiveness of the different types of treatment in promoting independent living or maximizing patient functioning within the institutional setting.

(7) The cost savings associated with independent living.

(8) The appropriateness of the criteria used for the classification and placement of Medi-Cal patients in long-term care facilities, with recommendations for changes in legislative or administrative policy if warranted.

(b) Present levels of community involvement in the skilled nursing or intermediate care facilities and social activities outside the facilities, including, but not limited to the following:

(1) The nature and frequency of present activities.

(2) The nature and frequency of activities which should be provided in order to produce maximum independence for the individual and a better quality of life.

(3) The cost of implementing the recommendations made pursuant to paragraph (2) for transportation, staff, usage, and additional liability insurance.

(4) The impact of community involvement on the potential for independent living.

(c) The ability of communities to absorb persons who would be ready to move out into independent living or maximizing patient functioning within the institutional setting.

(d) The extent to which services are available in the facilities to promote restorative and rehabilitative treatment and independent living, including, but not limited to, a comparison of the availability of such services in the various types of long-term care facilities existing in the state.

(e) To the extent practicable, where timely and appropriate reports exist, the information in such reports shall be used and incorporated in the report required by Section 3 of this act in lieu of any portion of the study specified in this section.

SEC. 3. On or before September 1, 1981, the State Department of Health Services shall complete and submit to the Legislature a preliminary report of the results of the study specified in Section 2 of this act. On or before February 1, 1982, the State Department of Health Services shall complete and submit to the Legislature a final report of the results and recommendations of the study specified in Section 2 of this act.

SEC. 4. The sum of one hundred thirty thousand dollars (\$130,000) is hereby appropriated, without regard to fiscal year, from the General Fund to the State Controller for allocation and distribution to the State Department of Health Services for costs incurred in implementing and complying with the provisions of this act.

## CHAPTER 1212

An act to add Article 4.7 (commencing with Section 2189) and Article 11 (commencing with Section 2200) to Chapter 5 of Division 2 of the Business and Professions Code, relating to physicians and surgeons, and making an appropriation therefor.

[Approved by Governor September 27, 1980. Filed with  
Secretary of State September 29, 1980 ]

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

SECTION 1. Article 4.7 (commencing with Section 2189) is added to Chapter 5 of Division 2 of the Business and Professions Code, to read:

Article 4.7. Physician and Surgeon Incentive Pilot Program

2189. California is currently experiencing a geographical and specialty maldistribution of physicians and surgeons. It is the intent of the Legislature to address these problems by assisting licensed physicians and surgeons in establishing medical practices in areas deficient in physician services and primary care specialties.

2189.1. For the purposes of this article:

(a) "Board" means the Board of Medical Quality Assurance of California.

(b) "Commission" means the California Health Manpower Policy Commission.

(c) "Division" means the Division of Licensing of the Board of Medical Quality Assurance of California.

(d) "Practice of medicine" or "medical practice" means all activities authorized by a physician's and surgeon's certificate, except activities performed in the course of employment as a public health officer, as a medical school faculty member where teaching time is more than 25 percent of the working day, or as a resident or first-year postgraduate trainee.

(e) "Primary care services" means those medical services involving the specialties of general practice, family practice, general internal medicine, obstetrics, gynecology, and general pediatrics.

2189.2. The division shall administer the loan program to licensed physicians and surgeons and shall adopt such rules and regulations as are reasonably necessary to carry out the provisions of this article.

2189.3. There shall be 10 loans available each fiscal year up to June 30, 1986. The amount of a loan shall not exceed ten thousand dollars (\$10,000). The board shall make no more than one loan to any one licensed physician or surgeon.

2189.4. No licensed physician and surgeon shall be awarded a loan under this article unless he or she meets the following requirements:

(a) The applicant is licensed as a physician and surgeon by the

board at the time the loan is made.

(b) The applicant agrees to establish a medical practice in an area deficient in primary care services within 180 days from the date the loan is made.

(c) The applicant agrees to report a change of his or her medical practice to the division within 30 days from the date of the change.

2189.5. Applications for loans shall be made to the division, upon forms provided by it, at the times and in the manner prescribed by the rules and regulations adopted by the division.

2189.6. The division shall award loans on the basis of local need and specialty physician and surgeon shortages, as determined by the commission, to applicants it determines will establish medical practices in areas deficient in primary care services.

2189.7. Loans made pursuant to this article shall be repayable to the Contingent Fund of the Board of Medical Quality Assurance or canceled under the following conditions:

(a) A licensed physician and surgeon who establishes and maintains a medical practice in an area deficient in primary care services for less than one year shall repay the total amount of the loan, in addition to accrued interest charges.

(b) A licensed physician and surgeon who establishes and maintains a medical practice in an area deficient in primary care services for less than two years shall repay half the amount of the total loan, in addition to accrued interest charges.

(c) The total amount of the loan and all accrued interest shall be canceled for a licensed physician and surgeon who establishes and maintains a medical practice in an area deficient in primary care services for more than two years from the date the loan is made.

(1) In addition to the principal of the loan, interest shall accrue on the principal of all loans made at a rate which shall be two percentage points less than the authorized interest rate on California Water Bonds at the time the application is filed. Interest shall accrue from the date the loan is made until it is repayed unless the loan is canceled pursuant to Section 2180 or 2184.

(2) Loans made pursuant to this article shall be repayable to the Contingent Fund of the Board of Medical Quality Assurance under the terms specified in such loan agreements in periodic installments, according to the schedule agreed upon by the division and the borrower, over a 10-year period which shall begin one year after the borrower ceases to operate his or her medical practice in an area deficient in primary care services, excluding from such 10-year period all periods, up to three years, of (a) active duty performed by the borrower as a member of the armed forces of the United States, or (b) nonmilitary public service performed by the borrower which the division finds to be in the public interest.

2189.8. The liability to repay the loan shall be canceled upon the death of the borrower, or if the division determines that he or she has become permanently disabled and is unable to engage in substantial gainful activity.

2189.9. The commission shall, under the provisions of this article, make a determination in priority as to which areas of the state are deficient in primary care services and the degree to which these areas are underserved. This study shall be updated biennially and shall be the basis for notifying loan recipients of areas which will satisfy the loan repayment provisions of this article.

2189.10. The board shall issue a report on the efficacy of the pilot program established pursuant to this article to the Legislature and the Governor on or before July 1, 1985.

2189.11. The division may assess a charge with respect to a loan made under this article for failure of the borrower to pay all or part of an installment when due and, in the case of a borrower who is entitled to a deferment under Section 2189.7, for any failure to file timely and satisfactory evidence of such entitlement. The amount of any such charge may not exceed five dollars (\$5) for each month by which such installment or evidence is late, except that there shall be no charge for the first month.

SEC. 1.5. Article 11 (commencing with Section 2200) is added to Chapter 5 of Division 2 of the Business and Professions Code, to read:

#### Article 11. Physician and Surgeon Incentive Pilot Program

2200. California is currently experiencing a geographical and specialty maldistribution of physicians and surgeons. It is the intent of the Legislature to address these problems by assisting licensed physicians and surgeons in establishing medical practices in areas deficient in physician services and primary care specialties.

2201. For the purposes of this article:

(a) "Commission" means the California Health Manpower Policy Commission.

(b) "Division" means the Division of Licensing of the Board of Medical Quality Assurance of California.

(c) "Practice of medicine" or "medical practice" means all activities authorized by a physician's and surgeon's certificate, except activities performed in the course of employment as a public health officer, as a medical school faculty member where teaching time is more than 25 percent of the working day, or as a resident or first-year postgraduate trainee.

(d) "Primary care services" means those medical services involving the specialties of general practice, family practice, general internal medicine, obstetrics, gynecology, and general pediatrics.

2202. The division shall administer the loan program to licensed physicians and surgeons and shall adopt such rules and regulations as are reasonably necessary to carry out the provisions of this article.

2203. There shall be 10 loans available each fiscal year up to June 30, 1986. The amount of a loan shall not exceed ten thousand dollars (\$10,000). The board shall make no more than one loan to any one licensed physician.

2204. No licensed physician and surgeon shall be awarded a loan

under this article unless he or she meets the following requirements:

(a) The applicant is licensed as a physician and surgeon by the board at the time the loan is made.

(b) The applicant agrees to establish a medical practice in an area deficient in primary care services within 180 days from the date the loan is made.

(c) The applicant agrees to report a change of his or her medical practice to the division within 30 days from the date of the change.

2205. Applications for loans shall be made to the division, upon forms provided by it, at the times and in the manner prescribed by the regulations adopted by the division.

2206. The division shall award loans on the basis of local need and specialty physician and surgeon shortages, as determined by the commission, to applicants it determines will establish medical practices in areas deficient in primary care services.

2208. Loans made pursuant to this article shall be repayable to the Contingent Fund of the Board of Medical Quality Assurance or canceled under the following conditions:

(a) A licensed physician and surgeon who establishes and maintains a medical practice in an area deficient in primary care services for less than one year shall repay the total amount of the loan, in addition to accrued interest charges.

(b) A licensed physician and surgeon who establishes and maintains a medical practice in an area deficient in primary care services for less than two years shall repay half the amount of the total loan, in addition to accrued interest charges.

(c) The total amount of the loan and all accrued interest shall be canceled for a licensed physician and surgeon who establishes and maintains a medical practice in an area deficient in primary care services for more than two years from the date the loan is made.

(1) In addition to the principal of the loan, interest shall accrue on the principal of all loans made at a rate which shall be two percentage points less than the authorized interest rate on California Water Bonds at the time the application is filed. Interest shall accrue from the date the loan is made until it is repayed unless the loan is canceled pursuant to Section 2180 or 2184.

(2) Loans made pursuant to this article shall be repayable to the Contingent Fund of the Board of Medical Quality Assurance under the terms specified in such loan agreements in periodic installments, according to the schedule agreed upon by the division and the borrower, over a 10-year period which shall begin one year after the borrower ceases to operate his or her medical practice in an area deficient in primary care services, excluding from such 10-year period all periods, up to three years, of (a) active duty performed by the borrower as a member of the armed forces of the United States, or (b) nonmilitary public service performed by the borrower which the division finds to be in the public interest.

2209. The liability to repay the loan shall be canceled upon the death of the borrower, or if the division determines that he or she

has become permanently disabled and is unable to engage in substantial gainful activity.

2212. The division may assess a charge with respect to a loan made under this article for failure of the borrower to pay all or part of an installment when due and, in the case of a borrower who is entitled to a deferment under Section 2208, for any failure to file timely and satisfactory evidence of such entitlement. The amount of any such charge may not exceed five dollars (\$5) for each month by which such installment or evidence is late, except that there shall be no charge for the first month.

2213. The commission shall, under the provisions of this article, make a determination in priority as to which areas of the state are deficient in primary care services and the degree to which these areas are underserved. This study shall be updated biennially and shall be the basis for notifying loan recipients of areas which will satisfy the loan repayment provisions of this article.

2214. The board shall issue a report on the efficacy of the pilot program established pursuant to this article to the Legislature and the Governor on or before July 1, 1985.

SEC. 1.7. It is the intent of the Legislature that if this bill and Senate Bill 1558 are both chaptered and become effective January 1, 1980, and this bill is chaptered last, that the provisions of this bill be incorporated into the revision of the Medical Practice Act made by Senate Bill 1558.

Therefore Section 1.5 of this bill shall become operative only if this bill and Senate Bill 1558 are both chaptered and become effective January 1, 1980, and this bill is chaptered last, in which case, Section 1 of this bill shall not become operative.

SEC. 2. The California Postsecondary Education Commission shall issue a report on the efficacy of the Loans for Medical Students Program established pursuant to Article 4.5 (commencing with Section 2176) of Chapter 5 of Division 2 of the Business and Professions Code to the Legislature and the Governor on or before April 1, 1981. The report shall address the issue of physician maldistribution in California and options to the Medical Student Loan Program.

SEC. 3. (a) The sum of ten thousand dollars (\$10,000) is hereby appropriated from the Contingent Fund of the Board of Medical Quality Assurance to the California Postsecondary Education Commission for the purposes of Section 2 of this act.

(b) The sum of one hundred thousand dollars (\$100,000) is hereby appropriated from the Contingent Fund of the Board of Medical Quality Assurance to the Division of Licensing of the board for the purposes of Section 1 of this act.

## CHAPTER 1213

An act to amend Sections 9350.8, 9351.2, 9354.3, 9355.7, 9356.5, 9357.15, 9359.10, 75000, and 75030.5 of, to add Section 8901.5 to, and to repeal Sections 9355.25, 9357.47, 9357.6, and 9359.18 of, the Government Code, relating to public officers.

[Approved by Governor September 27, 1980 Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. Section 8901.5 is added to the Government Code, to read:

8901.5. Each Member of the Legislature may elect to receive one or more employee benefits, as prescribed by concurrent resolution, in lieu of a portion of the compensation provided by Section 8901. The portion of the compensation allocated to the payment of the benefits shall be deemed to be "compensation" for the purposes of Section 9350.6.

SEC. 1.5. Section 9350.8 of the Government Code is amended to read:

9350.8. "Contributions" means contributions made by a member at the rate of contribution prescribed in this chapter and not contributions made by the state unless the context otherwise requires a different construction.

SEC. 2. Section 9351.2 of the Government Code is amended to read:

9351.2. "Benefit" means the retirement or survivor allowance granted under this chapter or payment of accumulated contributions or lump-sum payments with respect to the death of a member.

SEC. 2.5. Section 9354.3 of the Government Code is amended to read:

9354.3. As soon as practicable after the close of each fiscal year, the board shall file with the Governor a report of its work for such fiscal year. Not later than March 15th next following the close of the fiscal year, the board shall transmit a copy of such report to each house of the Legislature and may transmit a copy to every member and beneficiary of the system.

SEC. 3. Section 9355.25 of the Government Code is repealed.

SEC. 4. Section 9355.7 of the Government Code is amended to read:

9355.7. Any member who, while serving a term of office as a Member of the Senate or Assembly, is elected or appointed to another public office and resigns his office as Member of the Senate or Assembly shall be credited with a period of service equal to the remainder of his term as Member of the Senate or Assembly if he makes contributions therefor to the Legislators' Retirement Fund. Such contributions shall be in an amount equal to that which he

would have made if he had served as a Member of the Senate or Assembly during the remainder of his term and had received the salary that he was receiving on the effective date of such resignation.

SEC. 5. Section 9356.5 of the Government Code is amended to read:

9356.5. Any member whose service is discontinued but whose membership is continued under Section 9355.2 and who becomes a member of the Judges' Retirement System or is entitled to benefits under the Judges' Retirement Law, may elect to transfer all or part of the service for which he is credited under this system to the Judges' Retirement System pursuant to Section 75030.5. The election may be made at any time prior to retirement by written notice to the board of administration. The member shall designate in the notice the dates of the service which he elects to transfer. Upon receipt of such notice by the board of administration, the member's accumulated contributions on account of the period of service transferred, and the interest thereon, shall be transferred to the Judges' Retirement Fund.

If the member elects to transfer all of the service for which he is credited in this system, his membership in this system is terminated. If he elects to transfer less than all of such service, his membership is continued under Section 9355.2 and the service with which he is credited in this system is reduced by the amount so transferred.

Any member whose service is discontinued but whose membership is continued under Section 9355.2 who is entitled to receive credit under this system by making an election to do so and making contribution to this system for such service, but who has not made such election, may, after becoming a member of the Judges' Retirement System, elect to receive credit for all or part of such service in the Judges' Retirement System pursuant to Section 75030.5. Upon making such election, the member may not thereafter elect to be credited in this system with the service so transferred.

SEC. 6. Section 9357.15 of the Government Code is amended to read:

9357.15. With respect to each person who is a member of the system pursuant to Section 9355.45, the Controller shall deduct 6½ percent from each warrant drawn in payment of compensation to such member, and 8 percent from each warrant drawn in payment of compensation to such members first elected after March 4, 1972, and shall remit such amount to the board of administration, to be deposited in the Legislators' Retirement Fund.

SEC. 7. Section 9357.47 of the Government Code is repealed.

SEC. 8. Section 9357.6 of the Government Code is repealed.

SEC. 9. Section 9359.10 of the Government Code is amended to read:

9359.10. The retirement allowance for a legislative statutory officer is an annual amount equal to 3 percent of the compensation payable to him at the time he vacates his legislative statutory office or payable to the incumbent of that legislative statutory office at the

time payments of the allowance fall due, whichever is higher, multiplied by the number of years of service with which the legislative statutory officer is entitled to be credited at the time of his retirement. In no event shall the allowance payable under this section exceed two-thirds of the compensation payable to the legislative statutory officer at the time he vacates his legislative statutory office or two-thirds of the compensation payable to the incumbent of that legislative statutory office at the time payments of the allowance fall due, whichever is the higher; provided, however, such allowance shall be further adjusted to reflect cost-of-living increases occurring after the retirement of the legislative statutory officer as determined under Section 9360.10 without respect to the limitations set forth in this section.

If a legislative statutory officer is entitled to a retirement allowance under any other state administered public retirement system, and his total retirement allowances under both systems exceed the maximum allowance to which he would be entitled under this section with 20 years service in his legislative statutory office, the allowance payable to him under this section shall be reduced to such amount that it, combined with the retirement allowance to which he is entitled under the other system, does not exceed the maximum allowance to which he would be entitled under this section with 22 $\frac{2}{3}$  years service in his legislative statutory office.

SEC. 10. Section 9359.18 of the Government Code is repealed.

SEC. 11. Section 75000 of the Government Code is amended to read:

75000. This chapter shall be known and may be cited as the "Judges' Retirement Law."

The retirement system established by this chapter shall be known and may be cited as the "Judges' Retirement System."

SEC. 12. Section 75030.5 of the Government Code is amended to read:

75030.5. Any judge who first becomes a judge on or after May 1, 1962, and who has served as an elected state constitutional officer before becoming a judge, or any judge who first became a judge prior to such date who has served as a constitutional officer or as a public legal officer before becoming a judge, has a right to elect, by written election filed with the Controller at any time prior to retirement, to make contributions pursuant to this section for, and receive credit in this system as, service for all or any part of the time he served as such officer, excluding any period of time for which he is receiving, or is entitled to receive, a retirement allowance from any other public retirement system.

As used herein, the term "elected state constitutional officer" means the holder of the office of Member of the Senate or Assembly, Governor, Lieutenant Governor, Secretary of State, Controller, Treasurer, Attorney General, Superintendent of Public Instruction, or member of the State Board of Equalization.

As used herein, the term "constitutional officer" means the holder

of an office created by the California Constitution, and "public legal officer" means the holder of any legal office of the state or any agency of the state or of any county or city in the state who is paid a salary or other fixed regular compensation and who is admitted and licensed to practice law in the State of California during the time of holding the office and whose principal duties in the office are legal in nature, such as Attorney General, Legislative Counsel, Commissioner of Corporations, district attorney, county counsel, city attorney, city prosecutor, public defender, or deputy of any such office, or a secretary to the Governor whose duties include the hearing of extradition matters, admitted and licensed to practice law in the State of California during the time of holding the office and whose principal duties in the office are legal in nature.

Every judge electing to receive credit for service pursuant to this section shall at the time of filing his election, and as a condition to receiving such credit, pay into the Judges' Retirement Fund a sum equal to the amount which would have been deducted from his salary and paid into that fund pursuant to Section 75102 had he been a judge during the time for which he elects to receive credit for service, computed by applying the rates of deduction applicable to judges' salaries during such time to the rate of salary he actually received during his first year as a judge, plus interest at 3 percent a year, to the date of his payment, upon the amounts of such deductions and from the respective dates they would have been paid had he been a judge during the time for which he elects to receive credit for service. Such amount and interest shall be determined by the Controller in accordance with this section. Funds transferred to the Judges' Retirement Fund pursuant to Section 9356.5 shall be deducted from such payment. Any funds so transferred which are in excess of the amount required by Section 9356.5 shall be refunded to the judge.

SEC. 13. It is the intent of the Legislature in enacting Section 1 of this act to allow Members of the Legislature to be eligible to obtain tax advantages permitted pursuant to the Internal Revenue Code.

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## CHAPTER 1214

An act to add and repeal Article 6.6 (commencing with Section 791) of Part 2 of Division 1 of the Insurance Code, relating to insurance.

[Approved by Governor September 27, 1980. Filed with  
Secretary of State September 29, 1980]

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

SECTION 1. Article 6.6 (commencing with Section 791) is added to Part 2 of Division 1 of the Insurance Code, to read:

Article 6.6. Insurance Information and Privacy Protection Act

791. The purpose of this article is to establish standards for the collection, use and disclosure of information gathered in connection with insurance transactions by insurance institutions, agents or insurance-support organizations; to maintain a balance between the need for information by those conducting the business of insurance and the public's need for fairness in insurance information practices, including the need to minimize intrusiveness; to establish a regulatory mechanism to enable natural persons to ascertain what information is being or has been collected about them in connection with insurance transactions and to have access to such information for the purpose of verifying or disputing its accuracy; to limit the disclosure of information collected in connection with insurance transactions; and to enable insurance applicants and policyholders to obtain the reasons for any adverse underwriting decision.

791.01. (a) The obligations imposed by this article shall apply to those insurance institutions, agents or insurance-support organizations which, on or after July 1, 1981:

(1) In the case of life or disability insurance:

(A) Collect, receive or maintain information in connection with insurance transactions which pertains to natural persons who are residents of this state, or

(B) Engage in insurance transactions with applicants, individuals or policyholders who are residents of this state, and

(2) In the case of property or casualty insurance:

(A) Collect, receive or maintain information in connection with insurance transactions involving policies, contracts or certificates of insurance delivered, issued for delivery or renewed in this state, or

(B) Engage in insurance transactions involving policies, contracts or certificates of insurance delivered, issued for delivery or renewed in this state.

(b) The rights granted by this article shall extend to:

(1) In the case of life or disability insurance, the following persons who are residents of this state:

(A) Natural persons who are the subject of information collected, received or maintained in connection with insurance transactions, and

(B) Applicants, individuals or policyholders who engage in or seek to engage in insurance transactions, and

(2) In the case of property or casualty insurance, the following persons:

(A) Natural persons who are the subject of information collected, received or maintained in connection with insurance transactions involving policies, contracts or certificates of insurance delivered, issued for delivery or renewed in this state, and

(B) Applicants, individuals or policyholders who engage in or seek to engage in insurance transactions involving policies, contracts or certificates of insurance delivered, issued for delivery or renewed in this state.

(c) For purposes of this section, a person shall be considered a resident of this state if the person's last known mailing address, as shown in the records of the insurance institution, agent, or insurance-support organization, is located in this state.

(d) This article shall not apply to any person or entity engaged in the business of title insurance as defined in Section 12340.3.

(e) This article shall not apply to a person or entity engaged in the business of a home protection company, as defined in Section 12740, which does not obtain or maintain personal information, as defined in this article, of its policyholders and applicants.

791.02. As used in this act:

(a) (1) "Adverse underwriting decision" means any of the following actions with respect to insurance transactions involving insurance coverage which is individually underwritten:

(A) A declination of insurance coverage,

(B) A termination of insurance coverage,

(C) Failure of an agent to apply for insurance coverage with a specific insurance institution which the agent represents and which is requested by an applicant,

(D) Action by an agent to obtain insurance coverage through a residual market mechanism,

(E) An offer to insure at higher than standard rates, with respect to life or disability insurance coverage, or

(F) The charging of a higher rate on the basis of information which differs from that which the applicant or policyholder furnished, with respect to property or casualty insurance coverage.

(2) Notwithstanding paragraph (1), the following actions shall not be considered adverse underwriting decisions but the insurance institution or agent responsible for their occurrence shall nevertheless provide the applicant or policyholder with the specific reason or reasons for their occurrence:

(A) The termination of an individual policy form on a class basis, statewide or national,

(B) A declination of insurance coverage solely because such coverage is not available on a class basis, statewide or national,

(C) The rescission of a policy, or

(D) With respect to property or casualty insurance, action by an insurance institution or agent to place insurance coverage with an insurance institution other than one used for preferred or standard risks.

(b) "Affiliate" or "affiliated" means a person that directly, or indirectly through one or more intermediaries, controls, is controlled by or is under common control with another person.

(c) "Agent" means any person licensed pursuant to Chapter 5 (commencing with Section 1621), Chapter 5A (commencing with

Section 1759), Chapter 6 (commencing with Section 1760), Chapter 7 (commencing with Section 1800), or Chapter 8 (commencing with Section 1831).

(d) "Applicant" means any person who seeks to contract for insurance coverage other than a person seeking group insurance that is not individually underwritten.

(e) "Consumer report" means any written, oral or other communication of information bearing on a natural person's credit worthiness, credit standing, credit capacity, character, general reputation, personal characteristics or mode of living which is used or expected to be used in connection with an insurance transaction.

(f) "Control," including the terms "controlled by" or "under common control with," means the possession, direct or indirect, of the power to direct or cause the direction of the management and policies of a person, whether through the ownership of voting securities, by contract other than a commercial contract for goods or nonmanagement services, or otherwise, unless the power is the result of an official position with or corporate office held by the person.

(g) "Declination of insurance coverage" means a denial, in whole or in part, by an insurance institution or agent of requested insurance coverage.

(h) "Individual" means any natural person who:

(1) In the case of property or casualty insurance, is a past, present or proposed named insured or certificate holder;

(2) In the case of life or disability insurance, is a past, present or proposed principal insured or certificate holder;

(3) Is a past, present or proposed policyowner;

(4) Is a past or present applicant; or

(5) Is a past or present claimant; or

(6) Derived, derives or will derive insurance coverage under an insurance policy or certificate subject to this act.

(i) "Institutional source" means any person or governmental entity that provides information about an individual to an agent, insurance institution or insurance-support organization, other than:

(1) An agent,

(2) The individual who is the subject of the information, or

(3) A natural person acting in a personal capacity rather than a business or professional capacity.

(j) "Insurance institution" means any corporation, association, partnership, reciprocal exchange, interinsurer, Lloyd's insurer, fraternal benefit society or other person engaged in the business of insurance, including medical service plans and hospital service plans. "Insurance institution" shall not include agents, insurance-support organizations, or group practice prepayment health care service plans regulated pursuant to the Knox-Keene Health Care Service Plan Act, Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code.

(k) "Insurance-support organization" means any person, other

than an agent, medical professional, peer review committee, government authority or insurance institution, who regularly engages, in whole or in part, in the business of assembling or evaluating information about natural persons for the primary purpose of providing the information or evaluation to an insurance institution or agent for insurance transactions, including:

(1) The furnishing of consumer reports or investigative consumer reports to an insurance institution or agent for use in connection with an insurance transaction, or

(2) The collection of personal information from insurance institutions, agents or other insurance-support organizations for the purpose of detecting or preventing fraud, material misrepresentation or material nondisclosure in connection with insurance underwriting or insurance claim activity.

(l) "Insurance transaction" means any transaction involving insurance primarily for personal, family or household needs rather than business or professional needs which entails:

(1) The determination of an individual's eligibility for an insurance coverage, benefit or payment, or

(2) The servicing of an insurance application, policy, contract or certificate.

(m) "Investigative consumer report" means a consumer report or portion thereof in which information about a natural person's character, general reputation, personal characteristics or mode of living is obtained through personal interviews with the person's neighbors, friends, associates, acquaintances or others who may have knowledge concerning such items of information.

(n) "Medical care institution" means any facility or institution that is licensed to provide health care services to natural persons, including but not limited to, hospitals, skilled nursing facilities, home health agencies, clinics, rehabilitation agencies and public health agencies.

(o) "Medical professional" means any person licensed or certified to provide health care services to natural persons, including but not limited to, a physician, dentist, nurse, optometrist, physical or occupational therapist, psychiatric social worker, clinical dietitian or clinical psychologist.

(p) "Medical record information" means personal information which:

(1) Relates to an individual's physical or mental condition, medical history or medical treatment, and

(2) Is obtained from a medical professional or medical care institution, from the individual, or from the individual's spouse, parent or legal guardian.

(q) "Person" means any natural person, corporation, association, partnership or other legal entity.

(r) "Personal information" means any individually identifiable information gathered in connection with an insurance transaction from which judgments can be made about an individual's character,

habits, avocations, finances, occupation, general reputation, credit, health or any other personal characteristics. "Personal information" includes "medical record information" but does not include "privileged information."

(s) "Policyholder" means any person who:

(1) In the case of individual property or casualty insurance, is a present named insured;

(2) In the case of individual life or disability insurance is a present policyowner; or

(3) In the case of group insurance which is individually underwritten, is a present group certificate holder.

(t) "Pretext interview" means an interview whereby a person, in an attempt to obtain information about a natural person, performs one or more of the following acts:

(1) Pretends to be someone he or she is not,

(2) Pretends to represent a person he or she is not in fact representing,

(3) Misrepresents the true purpose of the interview, or

(4) Refuses to identify himself or herself upon request.

(u) "Privileged information" means any individually identifiable information that relates to and is collected in connection with or in reasonable anticipation of a claim or civil or criminal proceeding involving an individual; provided, however, information otherwise meeting the requirements of this division shall nevertheless be considered "personal information" under this act if it is disclosed in violation of Section 791.13.

(v) "Residual market mechanism" means the California FAIR Plan Association, Chapter 10 (commencing with Section 10101) of Part 1 of Division 2, and the assigned risk plan, Chapter 1 (commencing with Section 11550) of Part 3 of Division 2.

(w) "Termination of insurance coverage" or "termination of an insurance policy" means either a cancellation, nonrenewal or lapse of an insurance policy, in whole or in part, for any reason other than the failure to pay a premium as required by the policy.

(x) "Commissioner" means the Insurance Commissioner; except in the case of a person or entity subject to the provisions of the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code), and except as to any person defined in subdivision (k) when engaged in providing information or evaluation to a person or entity subject to the provisions of the Knox-Keene Health Care Service Plan Act of 1975, and in such instances only, the term "commissioner" shall mean the Commissioner of Corporations.

(y) "Insurance" includes a medical service or hospital service agreement or contract issued by a person or entity subject to the Knox-Keene Health Care Service Plan Act of 1975 (Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code).

791.03. No insurance institution, agent or insurance-support

organization shall use or authorize the use of pretext interviews to obtain information in connection with an insurance transaction; except that a pretext interview may be undertaken to obtain information from a person or institution that does not have a generally or statutorily recognized privileged relationship with the person to whom the information relates for the purpose of investigating a claim where there is reasonable basis for suspecting fraud, material misrepresentation or material nondisclosure.

791.04. (a) An insurance institution or agent shall provide a notice as prescribed by subdivision (b) to all applicants or policyholders in connection with insurance transactions involving an application for insurance, a policy renewal, a policy reinstatement or a request for change in insurance benefits. Such notice shall be provided to the applicant or policyholder no later than:

(1) In the case of an application for insurance at the following times:

(A) At the time of the delivery of the insurance policy or certificate when personal information is collected only from the applicant or from public records, or

(B) At the time the collection of personal information is initiated when personal information is collected from a person other than the applicant;

(2) In the case of a policy renewal, the policy renewal date or the date upon which policy renewal is confirmed, except that no notice shall be required in connection with a policy renewal if either of the following applies:

(A) Personal information is collected only from the policyholder or from public records, or

(B) A notice meeting the requirements of this section has been given within the previous 24 months; or

(3) In the case of a policy reinstatement or change in insurance benefits, the time a request for a policy reinstatement or change in insurance benefits is received by the insurance institution, except that no notice shall be required if personal information is collected only from the policyholder or a notice meeting the requirements of this section has been given within the previous 24 months; or

(4) Notwithstanding paragraph (1) above, within three business days of the binding of a property or casualty insurance coverage.

(b) The notice required by subdivision (a) above shall be in writing and shall state as follows:

(1) Whether personal information may be collected from persons other than the individual or individuals proposed for coverage;

(2) The types of personal information that may be collected and the types of sources and investigative techniques that may be used to collect such information;

(3) The types of persons identified in subdivisions (b), (c), (d), (i), (k) and (l) of Section 791.13 who may receive personal information without prior authorization;

(4) The types of personal information that may be disclosed

without prior authorization;

(5) That a right of access, correction and amendment exists with respect to the personal information collected;

(6) That information obtained from a report prepared by an insurance-support organization may be retained by the insurance-support organization and disclosed to other persons; and

(7) That upon request, any individual proposed for coverage is entitled to receive:

(A) A description of procedures under Sections 791.08 and 791.09 which allow access to and correction of personal information, and

(B) A description of the circumstances under which personal information may be disclosed without prior authorization to the persons identified in subdivisions (b), (c), (d), (i), (k), and (l) of Section 791.13.

(c) Upon a request pursuant to paragraph (7) of subdivision (b), any individual proposed for coverage shall be informed of:

(1) The procedures established herein by which:

(A) An individual may gain access to recorded personal information collected about him or her by an insurance institution, agent or insurance-support organization, and

(B) The individual may correct, amend, delete or dispute recorded personal information, in whole or in part, and

(2) The circumstances under which personal information may be disclosed without prior authorization to the persons identified in subdivisions (b), (c), (d), (i), (k), and (l) of Section 791.13.

(d) The obligations imposed by this section upon an insurance institution or agent may be satisfied by another insurance institution or agent authorized to act on its behalf.

791.05. An insurance institution or agent shall clearly specify those items of information to be collected from an individual in connection with an insurance transaction which are desired solely for marketing, research or other purposes not directly related to the insurance transaction.

791.06. Except as provided in Section 791.13 and notwithstanding Part 2.6 (commencing with Section 56) of Division 1 of the Civil Code and any other provision of law, no insurance institution, agent or insurance-support organization shall ask, require or otherwise induce an individual, or someone authorized to act on behalf of the individual, to sign any form or statement in connection with an insurance transaction which authorizes the disclosure of personal or privileged information about the individual unless the form or statement:

(a) Is written in plain language.

(b) Is dated.

(c) Specifies the types of persons authorized to disclose information about the individual.

(d) Specifies the nature of the information authorized to be disclosed.

(e) Specifies the types of persons to whom the individual has

authorized the information to be disclosed.

(f) Specifies the purposes for which the information is collected.

(g) Specifies the length of time such authorization shall remain valid, which shall be no longer than:

(1) Thirty months, when signed in connection with an application for, a reinstatement of or a request for change in benefits of a life or disability insurance policy.

(2) One year following the effective date of the insurance policy, when signed in connection with an application for a property or casualty insurance policy.

(3) The duration of a claim, when signed in connection with any claim for benefits under an insurance policy.

(4) The duration of all claims processing activity performed in connection with all claims for benefits made by any person entitled to benefits under a nonprofit hospital service contract, provided, however, that such nonprofit hospital service plan shall annually notify the individual of the fact that a valid authorization is, and continues to be, in force and provide such individual with a reasonable facsimile of such authorization.

(h) Advises the individual or a person authorized to act on behalf of the individual that the individual or the individual's authorized representative is entitled to receive a copy of the authorization form.

(i) Is in no less than 8-point type and is clearly separate or detachable from any associated application or claim-form language.

(j) This section shall not be construed to require any authorization for the receipt of personal or privileged information about an individual.

791.07. (a) No insurance institution, agent or insurance-support organization may prepare or request an investigative consumer report about an individual in connection with an insurance transaction involving an application for insurance, a policy renewal, a policy reinstatement or a change in insurance benefits unless the insurance institution or agent informs the individual of the following:

(1) That he or she may request to be interviewed in connection with the preparation of the investigative consumer report, and

(2) That upon a request pursuant to Section 791.08, he or she is entitled to receive a copy of the investigative consumer report if no personal interview is, in fact, conducted.

(b) If an investigative consumer report is to be prepared by an insurance institution or an agent, the insurance institution or agent shall institute reasonable procedures to conduct a personal interview requested by an individual.

(c) If an investigative consumer report is to be prepared by an insurance-support organization, the insurance institution or agent desiring such report shall inform the insurance-support organization whether a personal interview has been requested by the individual. The insurance-support organization shall institute reasonable procedures to conduct such interviews, if requested.

791.08. (a) If any individual, after proper identification, submits

a written request to an insurance institution, agent or insurance-support organization for recorded personal information about the individual which is reasonably described by the individual and reasonably locatable and retrievable by the insurance institution, agent or insurance-support organization, the insurance institution, agent or insurance-support organization shall within 30 business days from the date such request is received:

(1) Inform the individual of the nature and substance of such recorded personal information in writing, by telephone or by other oral communication, whichever the insurance institution, agent or insurance-support organization prefers;

(2) Permit the individual to see and copy, in person, such recorded personal information pertaining to him or her or to obtain a copy of such recorded personal information by mail, whichever the individual prefers, unless such recorded personal information is in coded form, in which case an accurate translation in plain language shall be provided in writing;

(3) Disclose to the individual the identity, if recorded, of those persons to whom the insurance institution, agent or insurance-support organization has disclosed such personal information within two years prior to such request, and if the identity is not recorded, the names of those insurance institutions, agents, insurance-support organizations or other persons to whom such information is normally disclosed; and

(4) Provide the individual with a summary of the procedures by which he or she may request correction, amendment or deletion of recorded personal information.

(b) Any personal information provided pursuant to subdivision (a) above shall identify the source of the information if such source is an institutional source.

(c) Medical record information supplied by a medical care institution or medical professional and requested under subdivision (a), together with the identity of the medical professional or medical care institution which provided such information, shall be supplied either directly to the individual or to a medical professional designated by the individual and licensed to provide medical care with respect to the condition to which the information relates, whichever the insurance institution, agent or insurance-support organization prefers. If it elects to disclose the information to a medical professional designated by the individual, the insurance institution, agent or insurance-support organization shall notify the individual, at the time of the disclosure, that it has provided the information to the medical professional.

(d) Except for personal information provided under Section 791.10, an insurance institution, agent or insurance-support organization may charge a reasonable fee to cover the costs incurred in providing recorded personal information to individuals.

(e) The obligations imposed by this section upon an insurance institution or agent may be satisfied by another insurance institution

or agent authorized to act on its behalf. With respect to the copying and disclosure of recorded personal information pursuant to a request under subdivision (a), an insurance institution, agent or insurance-support organization may make arrangements with an insurance-support organization to copy and disclose recorded personal information on its behalf.

(f) The rights granted to individuals in this section shall extend to all natural persons to the extent information about them is collected and maintained by an insurance institution, agent or insurance-support organization in connection with an insurance transaction. The rights granted to all natural persons by this subdivision shall not extend to information about them that relates to and is collected in connection with or in reasonable anticipation of a claim or civil or criminal proceeding involving them.

791.09. (a) Within 30 business days from the date of the receipt of a written request from any individual to correct, amend or delete any recorded personal information about the individual within its possession, an insurance institution, agent or insurance-support organization shall either:

(1) Correct, amend or delete the portion of the recorded personal information in dispute; or

(2) Notify the individual of:

(A) Its refusal to make such correction, amendment or deletion,

(B) The reasons for the refusal, and

(C) The individual's right to file a supplementary statement as provided in subdivision (c).

(b) If the insurance institution, agent or insurance-support organization corrects, amends or deletes recorded personal information in accordance with paragraph (1) of subdivision (a), the insurance institution, agent or insurance-support organization shall so notify the individual in writing and furnish the correction, amendment or fact of deletion to:

(1) Any person specifically designated by the individual who may have, within the preceding two years, received such recorded personal information.

(2) Any insurance-support organization whose primary source of personal information is insurance institutions if the insurance-support organization has systematically received such recorded personal information from the insurance institution within the preceding seven years; provided, however, that the correction, amendment or fact of deletion need not be furnished if the insurance-support organization no longer maintains recorded personal information about the individual.

(3) Any insurance-support organization that furnished the personal information that has been corrected, amended or deleted.

(c) Whenever an individual disagrees with an insurance institution's, agent's or insurance-support organization's refusal to correct, amend or delete recorded personal information, the individual shall be permitted to file with the insurance institution,

agent or insurance-support organization:

(1) A concise statement setting forth what the individual thinks is the correct, relevant or fair information, and

(2) A concise statement of the reasons why the individual disagrees with the insurance institution's, agent's or insurance-support organization's refusal to correct, amend or delete recorded personal information.

(d) In the event an individual files either statement as described in subdivision (c), the insurance institution, agent or support organization shall:

(1) File the statement with the disputed personal information and provide a means by which anyone reviewing the disputed personal information will be made aware of the individual's statement and have access to it.

(2) In any subsequent disclosure by the insurance institution, agent or support organization of the recorded personal information that is the subject of disagreement, clearly identify the matter or matters in dispute and provide the individual's statement along with the recorded personal information being disclosed.

(3) Furnish the statement to the persons and in the manner specified in subdivision (b).

(e) The rights granted to individuals in this section shall extend to all natural persons to the extent information about them is collected and maintained by an insurance institution, agent or insurance-support organization in connection with an insurance transaction. The rights granted to all natural persons by this subdivision shall not extend to information about them that relates to and is collected in connection with or in reasonable anticipation of a claim or civil or criminal proceeding involving them.

791.10. (a) In the event of an adverse underwriting decision the insurance institution or agent responsible for the decision shall:

(1) Either provide the applicant, policyholder or individual proposed for coverage with the specific reason or reasons for the adverse underwriting decision in writing or advise such person that upon written request he or she may receive the specific reason or reasons in writing.

(2) Provide the applicant, policyholder or individual proposed for coverage with a summary of the rights established under subdivision (b) and Sections 791.08 and 791.09.

(b) Upon receipt of a written request within 90 business days from the date of the mailing of notice or other communication of an adverse underwriting decision to an applicant, policyholder or individual proposed for coverage, the insurance institution or agent shall furnish to such person within 21 business days of the receipt of such written request:

(1) The specific reason or reasons for the adverse underwriting decision, in writing, if such information was not initially furnished in writing pursuant to paragraph (1) of subdivision (a).

(2) The specific items of personal and privileged information that

support those reasons; provided, however:

(A) The insurance institution or agent shall not be required to furnish specific items of privileged information when the applicant, policyholder or individual proposed for coverage is suspected of fraud, material misrepresentation or material nondisclosure.

(B) Specific items of medical record information supplied by a medical care institution or medical professional shall be disclosed either directly to the individual about whom the information relates or to a medical professional designated by the individual and licensed to provide medical care with respect to the condition to which the information relates, whichever the insurance institution or agent prefers.

(3) The names and addresses of the institutional sources that supplied the specific items of information given pursuant to paragraph (2) of subdivision (b); provided, however, that the identity of any medical professional or medical care institution shall be disclosed either directly to the individual or to the designated medical professional, whichever the insurance institution or agent prefers.

(c) The obligations imposed by this section upon an insurance institution or agent may be satisfied by another insurance institution or agent authorized to act on its behalf.

(d) When an adverse underwriting decision results solely from an oral request or inquiry, the explanation of reasons and summary of rights required by subdivision (a) may be given orally to the extent that such information is available.

791.11. No insurance institution, agent or insurance-support organization may seek information in connection with an insurance transaction concerning:

(a) Any previous adverse underwriting decision experienced by an individual, or

(b) Any previous insurance coverage obtained by an individual through a residual market mechanism, unless such inquiry also requests the reasons for any previous adverse underwriting decision or the reasons why insurance coverage was previously obtained through a residual market mechanism.

791.12. No insurance institution or agent may base an adverse underwriting decision:

(a) On a previous adverse underwriting decision or on the fact that an individual previously obtained insurance coverage through a residual market mechanism; provided, however, an insurance institution or agent may base an adverse underwriting decision on further information obtained from an insurance institution or agent responsible for a previous adverse underwriting decision. Such further information, when requested, shall create a conclusive presumption that such information is necessary to perform the requesting insurer's function in connection with an insurance transaction involving the individual and, when reasonably available, shall be furnished the requesting insurer and the individual.

(b) On personal information received from an insurance-support organization whose primary source of information is insurance institutions; provided, however, an insurance institution or agent may base an adverse underwriting decision on further personal information obtained as the result of information received from an insurance-support organization. For purposes of this subdivision, the phrase "further personal information" shall include a statement by an insurance institution that its underwriting file contains the source of the information supplied by an insurance-support organization, that such information is either medical record information or personal information furnished by the individual, and that the insurance institution confirms the accuracy of the information supplied to it.

791.13. An insurance institution, agent or insurance-support organization shall not disclose any personal or privileged information about an individual collected or received in connection with an insurance transaction unless the disclosure is:

(a) With the written authorization of the individual, provided:

(1) If such authorization is obtained by an insurance institution, agent or insurance-support organization, the authorization:

(A) Complies with the requirements of subdivisions (a), (b), (d), and (e) of Section 791.06, and

(B) Is valid for a designated period not exceeding one year except that with regard to an authorization obtained by a nonprofit hospital service plan the period of validity shall comply with the requirements of paragraph (4) of subdivision (g) of Section 791.06; or

(2) If such authorization is obtained by a person other than an insurance institution, agent or insurance-support organization, the authorization is:

(A) Dated,

(B) Signed by the individual; and

(C) Obtained one year or less prior to the date a disclosure is sought pursuant to this subdivision; or

(b) To a person other than an insurance institution, agent or insurance-support organization to enable such person to perform a business, professional or insurance function for the disclosing insurance institution, agent or insurance-support organization, provided that:

(1) The information disclosed is reasonably necessary for the recipient to perform its function for the disclosing insurance institution, agent or insurance-support organization; and

(2) The recipient agrees not to disclose the information without the individual's written authorization unless the disclosure would otherwise be permitted by this section if made by an insurance institution, agent or insurance-support organization; or

(c) To an insurance institution, agent, insurance-support organization or self-insurer, provided the information disclosed is limited to that which is reasonably necessary:

(1) To detect or prevent fraud, material misrepresentation or material nondisclosure in connection with insurance transactions, or

(2) For either the disclosing or receiving insurance institution, agent or insurance-support organization to perform its function in connection with an insurance transaction involving the individual; or

(d) To a medical professional for the purpose of informing the individual of a medical problem of which the individual may not be aware; or

(e) To an insurance regulatory authority; or

(f) To a law enforcement or other government authority pursuant to law; or

(g) Otherwise permitted or required by law; or

(h) In response to a facially valid administrative or judicial order, including a search warrant or subpoena; or

(i) Made for the purpose of conducting scientific research including actuarial and underwriting studies, management audits, financial audits or program evaluations, provided that:

(1) No individual may be identified in any report of such research, audit or evaluation; and

(2) Materials allowing the individual to be identified are returned or destroyed as soon as they are no longer needed; or

(j) To a party or a representative of a party to a proposed or consummated sale, transfer, merger or consolidation of all or part of the business of the insurance institution, agent or insurance-support organization, provided that:

(1) Prior to the consummation of the sale, transfer, merger or consolidation only such information is disclosed as is reasonably necessary to enable the recipient to make business decisions about the purchase, transfer, merger or consolidation; and

(2) The recipient agrees not to disclose the information unless the disclosure would otherwise be permitted by this section if made by an insurance institution, agent or insurance-support organization; or

(k) (1) To a person whose only use of such information will be in connection with the marketing of a product or service, provided that:

(A) No medical record information, privileged information, or personal information relating to an individual's character, personal habits, mode of living or general reputation is disclosed, and no classification derived from such information is disclosed; and

(B) The individual has been given an opportunity to indicate that he or she does not want personal information disclosed for marketing purposes and has given no indication that he or she does not want the information disclosed; and

(C) The person receiving such information agrees not to use it except in connection with the marketing of a product or service;

(2) Nothing in this subdivision shall prohibit the disclosure of a complete list of the names and addresses of persons insured by an insurance institution or agent, nor shall this subdivision prohibit a disclosure pursuant to subdivision (1); or

(l) To an affiliate whose only use of the information will be in connection with the marketing of an insurance product or service, provided the affiliate agrees not to disclose the information for any other purpose or to unaffiliated persons; or

(m) By an insurance-support organization subject to the federal Fair Credit Reporting Act, as amended, provided:

(1) The sources of information of the insurance-support organization are persons other than insurance institutions or agents, and

(2) The disclosure is to a person other than an insurance institution or agent.

791.14. (a) The commissioner shall have power to examine and investigate into the affairs of every insurance institution or agent doing business in this state to determine whether the insurance institution or agent has been or is engaged in any conduct in violation of this article.

(b) The commissioner shall have the power to examine and investigate into the affairs of every insurance-support organization acting on behalf of an insurance institution or agent which either transacts business in this state or transacts business outside this state that has an effect on a person residing in this state in order to determine whether such insurance-support organization has been or is engaged in any conduct in violation of this article.

791.15. (a) Whenever the commissioner has reason to believe that an insurance institution, agent or insurance-support organization has been or is engaged in conduct in this state which violates this article, or if the commissioner believes that an insurance-support organization has been or is engaged in conduct outside this state which has an effect on a person residing in this state and violates this article, the commissioner shall issue and serve upon such insurance institution, agent or insurance-support organization a statement of charges and notice of hearing to be held at a time and place fixed in the notice. The date for such hearing shall be not less than 30 days after the date of service.

(b) At the time and place fixed for such hearing the insurance institution, agent or insurance-support organization charged shall have an opportunity to answer the charges against it and present evidence on its behalf. Upon good cause shown, the commissioner shall permit any adversely affected person to intervene, appear and be heard at such hearing by counsel or in person.

(c) At any hearing conducted pursuant to this section the commissioner may administer oaths, examine and cross-examine witnesses and receive oral and documentary evidence. The commissioner shall have the power to subpoena witnesses, compel their attendance and require the production of books, papers, records, correspondence and other documents which are relevant to the hearing. A stenographic record of the hearing shall be made upon the request of any party or at the discretion of the commissioner. If no stenographic record is made and if judicial

review is sought, the commissioner shall prepare a statement of the evidence for use on review. Hearings conducted under this section shall be governed by the same rules of evidence and procedure applicable to administrative proceedings conducted pursuant to this code.

(d) Statements of charges, notice, orders and other processes of the commissioner under this article may be served by anyone duly authorized to act on behalf of the commissioner. Service of process may be completed in the manner provided by law for service of process in civil actions or by registered mail. A copy of the statement of charges, notice, order or other process shall be provided to the person or persons whose rights under this article have been allegedly violated. A verified return setting forth the manner of service, or return postcard receipt in the case of registered mail, shall be sufficient proof of service.

791.16. For the purpose of this article, an insurance-support organization transacting business outside this state which has an effect on a person residing in this state shall be deemed to have appointed the commissioner to accept service of process on its behalf, provided the commissioner causes a copy of such service to be mailed forthwith by registered mail to the insurance-support organization at its last known principal place of business. The return postcard receipt for such mailing shall be sufficient proof that the same was properly mailed by the commissioner.

791.17. (a) If, after a hearing pursuant to Section 791.15, the commissioner determines that the insurance institution, agent or insurance-support organization charged has engaged in conduct or practices in violation of this article, he shall reduce his findings to writing and shall issue and cause to be served upon such insurance institution, agent or insurance-support organization a copy of such findings and an order requiring such insurance institution, agent or insurance-support organization to cease and desist from the conduct or practices constituting a violation of this article.

(b) If, after a hearing pursuant to Section 791.15, the commissioner determines that the insurance institution, agent or insurance-support organization charged has not engaged in conduct or practices in violation of this article, he shall prepare a written report which sets forth findings of fact and conclusions of law. Such report shall be served upon the insurance institution, agent or insurance-support organization charged and upon the person or persons, if any, whose rights under this article were allegedly violated.

(c) Until the expiration of the time allowed under Section 791.18 for filing a petition for review or until such petition is actually filed, whichever occurs first, the commissioner may modify or set aside any order or report issued under this section. After the expiration of the time allowed under Section 791.18 for filing a petition for review, if no such petition has been duly filed, the commissioner may, after notice and opportunity for hearing, alter, modify or set aside, in

whole or in part, any order or report issued under this section whenever conditions of fact or law warrant such action or if the public interest so requires.

791.18. (a) Any person subject to an order of the commissioner under Section 779.17 or Section 791.20 or any person whose rights under this article were allegedly violated may obtain a review of any order or report of the commissioner by filing in a court of competent jurisdiction, within 30 days from the date of the service of such order or report, pursuant to Section 1094.5 of the Code of Civil Procedure. The court shall have jurisdiction to make and enter a decree modifying, affirming or reversing any order or report of the commissioner, in whole or in part.

(b) An order or report issued by the commissioner under Section 791.17 shall become final:

(1) Upon the expiration of the time allowed for the filing of a petition for review, if no such petition has been duly filed; except that the commissioner may modify or set aside an order or report to the extent provided in subdivision (c) of Section 791.17; or

(2) Upon a final decision of the court if the court directs that the order or report of the commissioner be affirmed or the petition for review dismissed.

(c) No order or report of the commissioner under this article or order of a court to enforce the same shall in any way relieve or absolve any person affected by such order or report from any liability under any law of this state.

791.19. Any person who violates a cease and desist order of the commissioner under Section 791.17 may, after notice and hearing and upon order of the commissioner, be subject to one or more of the following penalties, at the discretion of the commissioner:

(a) A monetary fine of not more than ten thousand dollars (\$10,000) for each violation; or

(b) A monetary fine of not more than fifty thousand dollars (\$50,000) if the commissioner finds that violations have occurred with such frequency as to constitute a general business practice; or

(c) Suspension or revocation of an insurance institution's or agent's license if the insurance institution or agent knew or reasonably should have known it was in violation of this article.

791.20. If any insurance institution, agent or insurance-support organization fails to comply with Section 791.08, 791.09 or 791.10 with respect to the rights granted under those sections, any person whose rights are violated may apply to any court of competent jurisdiction, for appropriate equitable relief. If the court finds that the failure to comply with Section 791.08, 791.09 or 791.10 was without reasonable cause, it may award costs and reasonable attorney's fees to the person bringing an action under this section in addition to any equitable relief. The court may award costs and reasonable attorney's fees to the insurance institution, agent or insurance-support organization if it finds that an action under this section is frivolous. Any action brought under this section shall be subject to such defenses as may

be available in any action for equitable relief.

791.21. There shall be no liability on the part of and no cause of action shall arise against any person for disclosing or receiving personal or privileged information in good faith, except there shall be no immunity under this section for a disclosure of information in a negligent manner, information known to be false or a disclosure with malice or willful intent to injure any person. Liability, where no immunity exists, shall be limited to compensatory damages and, in addition, punitive damages not to exceed three thousand dollars (\$3,000), attorney's fees not to exceed one thousand dollars (\$1,000), and the cost of litigation.

791.22. Any person who knowingly and willfully obtains information about an individual from an insurance institution, agent or insurance-support organization under false pretenses shall be fined not more than ten thousand dollars (\$10,000) or imprisoned for not more than one year, or both.

791.23. The rights granted under Sections 791.08, 791.09 and 791.13 shall take effect on July 1, 1981, regardless of the date of the collection or receipt of the information which is the subject of such sections. Nothing contained in subdivisions (k) and (l) of Section 791.13, or in any other provision of this article, shall in any way affect the provisions of Section 770.1.

791.26. Where an authorization from the individual was granted to a nonprofit hospital service plan prior to July 1, 1981, such authorization shall be deemed to be in compliance with this article.

SEC. 2. This act shall remain in effect only until January 1, 1989, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1989, 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.

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## CHAPTER 1215

An act to amend Section 5008 of the Welfare and Institutions Code, relating to mental health.

[Approved by Governor September 27, 1980. Filed with  
Secretary of State September 29, 1980.]

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

**SECTION 1.** Section 5008 of the Welfare and Institutions Code is amended to read:

5008. Unless the context otherwise requires, the following definitions shall govern the construction of this part:

(a) "Evaluation" consists of multidisciplinary professional analyses of a person's medical, psychological, educational, social, financial, and legal conditions as may appear to constitute a problem. Persons providing evaluation services shall be properly qualified professionals and may be full-time employees of an agency providing evaluation services or may be part-time employees or may be employed on a contractual basis;

(b) "Court-ordered evaluation" means an evaluation ordered by a superior court pursuant to Article 2 (commencing with Section 5200) or by a court pursuant to Article 3 (commencing with Section 5225) of Chapter 2 of this part;

(c) "Intensive treatment" consists of such hospital and other services as may be indicated. Intensive treatment shall be provided by properly qualified professionals and carried out in facilities qualifying for reimbursement under the California Medical Assistance Program (Medi-Cal) set forth in Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of this code, or under Title XVIII of the federal Social Security Act and regulations thereunder. Intensive treatment may be provided in hospitals of the United States government by properly qualified professionals. Nothing in this part shall be construed to prohibit an intensive treatment facility from also providing 72-hour treatment and evaluation;

(d) "Referral" is referral of persons by each agency or facility providing intensive treatment or evaluation services to other agencies or individuals. The purpose of referral shall be to provide for continuity of care, and may include, but need not be limited to, informing the person of available services, making appointments on the person's behalf, discussing the person's problem with the agency or individual to which the person has been referred, appraising the outcome of referrals, and arranging for personal escort and transportation when necessary. Referral shall be considered complete when the agency or individual to whom the person has been referred accepts responsibility for providing the necessary services. All persons shall be advised of available precare services which prevent initial recourse to hospital treatment or aftercare services which support adjustment to community living following hospital treatment. Such services may be provided through county welfare departments, State Department of Mental Health, Short-Doyle programs or other local agencies.

Each agency or facility providing evaluation services shall maintain a current and comprehensive file of all community services, both public and private. Such files shall contain current agreements with agencies or individuals accepting referrals, as well as appraisals

of the results of past referrals;

(e) "Crisis intervention" consists of an interview or series of interviews within a brief period of time, conducted by qualified professionals, and designed to alleviate personal or family situations which present a serious and imminent threat to the health or stability of the person or the family. The interview or interviews may be conducted in the home of the person or family, or on an inpatient or outpatient basis with such therapy, or other services, as may be appropriate. Crisis intervention may, as appropriate, include suicide prevention, psychiatric, welfare, psychological, legal, or other social services;

(f) "Prepetition screening" is a screening of all petitions for court-ordered evaluation as provided in Article 2 (commencing with Section 5200) of Chapter 2, consisting of a professional review of all petitions; an interview with the petitioner and, whenever possible, the person alleged, as a result of mental disorder, to be a danger to others, or to himself, or to be gravely disabled, to assess the problem and explain the petition; when indicated, efforts to persuade the person to receive, on a voluntary basis, comprehensive evaluation, crisis intervention, referral, and other services specified in this part;

(g) "Conservatorship investigation" means investigation by an agency appointed or designated by the governing body of cases in which conservatorship is recommended pursuant to Chapter 3 (commencing with Section 5350) of this part;

(h) For purposes of Article 1 (commencing with Section 5150), Article 2 (commencing with Section 5200), and Article 4 (commencing with Section 5250) of Chapter 2 of this part, and for the purposes of Chapter 3 (commencing with Section 5350) of this part, "gravely disabled" means:

(1) A condition in which a person, as a result of a mental disorder, is unable to provide for his basic personal needs for food, clothing, or shelter; or

(2) A condition in which a person, has been found mentally incompetent under Section 1370 of the Penal Code and all of the following facts exist:

(i) The indictment or information pending against the defendant at the time of commitment charges a felony involving death, great bodily harm, or a serious threat to the physical well-being of another person.

(ii) The indictment or information has not been dismissed.

(iii) As a result of mental disorder, the person is unable to understand the nature and purpose of the proceedings taken against him and to assist counsel in the conduct of his defense in a rational manner.

For purposes of Article 3 (commencing with Section 5225) and Article 4 (commencing with Section 5250), of Chapter 2 of this part, and for the purposes of Chapter 3 (commencing with Section 5350) of this part, "gravely disabled" means a condition in which a person, as a result of impairment by chronic alcoholism, is unable to provide

for his basic personal needs for food, clothing, or shelter.

The term "gravely disabled" does not include mentally retarded persons by reason of being mentally retarded alone;

(i) "Peace officer" means each of the persons specified in Sections 830.1 and 830.2 of the Penal Code and any peace officer of the California Department of Parks and Recreation or any regional park district;

(j) "Postcertification treatment" means an additional period of treatment pursuant to Article 6 (commencing with Section 5300) of Chapter 2 of this part;

(k) "Court," unless otherwise specified, means a court of record or a justice court;

(l) A gravely disabled minor is a minor who, as a result of a mental disorder, is unable to use the elements of life which are essential to health, safety, and development, including food, clothing, and shelter, even though provided to the minor by others.

SEC. 2. Section 5008 of the Welfare and Institutions Code is amended to read:

5008. Unless the context otherwise requires, the following definitions shall govern the construction of this part:

(a) "Evaluation" consists of multidisciplinary professional analyses of a person's medical, psychological, educational, social, financial, and legal conditions as may appear to constitute a problem. Persons providing evaluation services shall be properly qualified professionals and may be full-time employees of an agency providing evaluation services or may be part-time employees or may be employed on a contractual basis;

(b) "Court-ordered evaluation" means an evaluation ordered by a superior court pursuant to Article 2 (commencing with Section 5200) or by a court pursuant to Article 3 (commencing with Section 5225) of Chapter 2;

(c) "Intensive treatment" consists of such hospital and other services as may be indicated. Intensive treatment shall be provided by properly qualified professionals and carried out in facilities qualifying for reimbursement under the California Medical Assistance Program (Medi-Cal) set forth in Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of this code, or under Title XVIII of the federal Social Security Act and regulations thereunder. Intensive treatment may be provided in hospitals of the United States government by properly qualified professionals. Nothing in this part shall be construed to prohibit an intensive treatment facility from also providing 72-hour treatment and evaluation;

(d) "Referral" is referral of persons by each agency or facility providing intensive treatment or evaluation services to other agencies or individuals. The purpose of referral shall be to provide for continuity of care, and may include, but need not be limited to, informing the person of available services, making appointments on the person's behalf, discussing the person's problem with the agency or individual to which the person has been referred, appraising the

outcome of referrals, and arranging for personal escort and transportation when necessary. Referral shall be considered complete when the agency or individual to whom the person has been referred accepts responsibility for providing the necessary services. All persons shall be advised of available precare services which prevent initial recourse to hospital treatment or aftercare services which support adjustment to community living following hospital treatment. Such services may be provided through county welfare departments, State Department of Mental Health, Short-Doyle programs or other local agencies.

Each agency or facility providing evaluation services shall maintain a current and comprehensive file of all community services, both public and private. Such files shall contain current agreements with agencies or individuals accepting referrals, as well as appraisals of the results of past referrals;

(e) "Crisis intervention" consists of an interview or series of interviews within a brief period of time, conducted by qualified professionals, and designed to alleviate personal or family situations which present a serious and imminent threat to the health or stability of the person or the family. The interview or interviews may be conducted in the home of the person or family, or on an inpatient or outpatient basis with such therapy, or other services, as may be appropriate. Crisis intervention may, as appropriate, include suicide prevention, psychiatric, welfare, psychological, legal, or other social services;

(f) "Prepetition screening" is a screening of all petitions for court-ordered evaluation as provided in Article 2 (commencing with Section 5200) of Chapter 2, consisting of a professional review of all petitions; an interview with the petitioner and, whenever possible, the person alleged, as a result of mental disorder, to be a danger to others, or to himself or herself, or to be gravely disabled, to assess the problem and explain the petition; when indicated, efforts to persuade the person to receive, on a voluntary basis, comprehensive evaluation, crisis intervention, referral, and other services specified in this part;

(g) "Conservatorship investigation" means investigation by an agency appointed or designated by the governing body of cases in which conservatorship is recommended pursuant to Chapter 3 (commencing with Section 5350) of this part;

(h) For purposes of Article 1 (commencing with Section 5150), Article 2 (commencing with Section 5200), and Article 4 (commencing with Section 5250) of Chapter 2 of this part, and for the purposes of Chapter 3 (commencing with Section 5350) of this part, "gravely disabled" means:

(1) A condition in which a person, as a result of a mental disorder, is unable to provide for his or her basic personal needs for food, clothing, or shelter; or

(2) A condition in which a person, has been found mentally incompetent under Section 1370 of the Penal Code and all of the

following facts exist:

(i) The indictment or information pending against the defendant at the time of commitment charges a felony involving death, great bodily harm, or a serious threat to the physical well-being of another person.

(ii) The indictment or information has not been dismissed.

(iii) As a result of mental disorder, the person is unable to understand the nature and purpose of the proceedings taken against him or her and to assist counsel in the conduct of his or her defense in a rational manner.

For purposes of Article 3 (commencing with Section 5225) and Article 4 (commencing with Section 5250), of Chapter 2 of this part, and for the purposes of Chapter 3 (commencing with Section 5350), "gravely disabled" means a condition in which a person, as a result of impairment by chronic alcoholism, is unable to provide for his or her basic personal needs for food, clothing, or shelter.

The term "gravely disabled" does not include mentally retarded persons by reason of being mentally retarded alone;

(i) "Peace officer" means each of the persons specified in Sections 830.1 and 830.2 of the Penal Code and any peace officer of the Department of Parks and Recreation or any regional park district. Peace officer also means any parole officer or probation officer specified in subdivision (a) of Section 830.5 of the Penal Code when acting in relation to cases for which they have a legally mandated responsibility;

(j) "Postcertification treatment" means an additional period of treatment pursuant to Article 6 (commencing with Section 5300) of Chapter 2 of this part;

(k) "Court," unless otherwise specified, means a court of record or a justice court;

(l) A gravely disabled minor is a minor who, as a result of a mental disorder, is unable to use the elements of life which are essential to health, safety, and development, including food, clothing, and shelter, even though provided to the minor by others.

SEC. 3. It is the intent of the Legislature, if this bill and Assembly Bill 1873 are both chaptered and become effective January 1, 1981, both bills amend Section 5008 of the Welfare and Institutions Code, and this bill is chaptered after Assembly Bill 1873, that the amendments to Section 5008 proposed by both bills be given effect and incorporated in Section 5008 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 1873 are both chaptered and become effective January 1, 1981, both amend Section 5008, and this bill is chaptered after Assembly Bill 1873, in which case Section 1 of this act shall not become operative.

## CHAPTER 1216

An act to add and repeal Sections 631.01 and 631.2 to the Code of Civil Procedure, relating to jury trials.

[Approved by Governor September 27, 1980 Filed with  
Secretary of State September 29, 1980 ]

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

SECTION 1. Section 631.01 is added to the Code of Civil Procedure, to read:

631.01. (a) Trial by jury may be waived by the several parties to an issue of fact in any of the following ways:

- (1) By failing to appear at the trial.
- (2) By written consent filed with the clerk or judge.
- (3) By oral consent, in open court, entered in the minutes or docket.

(4) By failing to announce that a jury is required, at the time the cause is first set for trial, if it is set upon notice or stipulation, or within five days after notice of setting if it is set without notice or stipulation.

(5) By failing to deposit with the clerk, or judge, advance jury fees 14 days prior to the date set for trial, or as provided by subdivision (b). The advance jury fee shall not exceed the amount necessary to pay the average mileage and fees of 20 trial jurors in the court to which the jurors are summoned.

(6) By failing to deposit with the clerk, or judge, at the beginning of the second and each succeeding day's session a sum equal to one day's fees of the jury, and the mileage or transportation, if there are any.

(b) In a superior court action if a jury is demanded by either party in the memorandum to set the cause for trial and the party, prior to trial, by announcement or by operation of law waives a trial by jury, then all adverse parties shall have five days following the receipt of notice of the waiver to file and serve a demand for a trial by jury and to deposit any advance jury fees which are then due.

(c) When the party who has demanded trial by jury either waives such trial upon or after the assignment for trial to a specific department of the court, or upon or after the commencement of the trial, or fails to deposit the fees as provided in paragraph 6 of subdivision (a), trial by jury shall be waived by the other party either failing promptly to demand trial by jury before the judge in whose department the waiver, other than for the failure to deposit such fees, was made, or by that party's failing promptly to deposit the fees provided in paragraph 6 of subdivision (a).

(d) The court may, in its discretion upon just terms, allow a trial by jury although there may have been a waiver of a trial by jury.

SEC. 2. Section 631.2 is added to the Code of Civil Procedure, to read:

631.2. (a) Notwithstanding any other provision of law, the county may pay jury fees in civil cases from general funds of the county available therefor. Nothing in this section shall be construed to change the requirements for the deposit of jury fees in any civil case by the appropriate party to the litigation at the time and in the manner otherwise provided by law. Nothing in this section shall preclude the right of the county to be reimbursed by the party to the litigation liable therefor for any payment of jury fees pursuant to this section.

(b) The party who has demanded trial by jury shall reimburse the county for the fees and mileage of all jurors appearing for voir dire examination, except those jurors who are excused and subsequently on the same day are called for voir dire examination in another case.

SEC. 3. In order to determine the precise effects of this bill, prior to the possible implementation thereof on a statewide basis, this act shall apply only to courts in the County of Santa Clara.

SEC. 4. This act shall remain in effect only until January 1, 1982, and as of that date is repealed.

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## CHAPTER 1217

An act to add Section 66412.1 to, and to repeal and add Section 66424.2 of, the Government Code, relating to subdivisions, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1980 Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. Section 66412.1 is added to the Government Code, to read:

66412.1. This division shall also be inapplicable to:

(a) 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.

(b) The financing or leasing of existing separate commercial or industrial buildings on a single parcel.

SEC. 2. Section 66424.2 of the Government Code, as added by Chapter 403 of the Statutes of 1980, is repealed.

SEC. 3. Section 66424.2 is added to the Government Code, to read:

66424.2. (a) Notwithstanding Section 66424, two or more contiguous parcels or units of land which have been created under the provisions of this division or any prior law regulating the division of land or a local ordinance enacted pursuant thereto or were not

subject to such provisions at the time of their creation shall not be deemed merged by virtue of the fact that such contiguous parcels or units are held by the same owner, and no further proceeding under the provisions of this division or a local ordinance enacted pursuant thereto shall be required for the purpose of sale, lease, or financing of such contiguous parcels or units, or any of them; except that, a local agency may, by ordinance, provide that if any one of such contiguous parcels or units held by the same owner does not conform to standards for minimum parcel size to permit use or development under a zoning, subdivision or other ordinance of the local agency and at least one of such contiguous parcels or units is not developed with a building for which a permit has been issued by the local agency, or which was built prior to the time such permits were required by the local agency, then such parcels shall be merged for the purposes of this division.

(b) Any parcels which merged by operation of law and which have not been deemed merged pursuant to a local ordinance adopted pursuant to subdivision (a), are hereby deemed to be unmerged without compliance with the requirements of this division.

(c) Whenever a local agency has knowledge that real property has merged pursuant to this section or a local ordinance enacted pursuant to this section, it shall cause to be filed for record with the recorder of the county in which the real property is located, a notice of such merger specifying the names of the record owners and particularly describing the real property, provided that, at least 30 days prior to the recording of the notice the owner of the parcels or units to be affected by the merger, shall be advised in writing of the intention to record the notice and specifying a time, date and place at which the owner may present evidence to the legislative body or advisory agency as to why such notice should not be recorded.

SEC. 4. Section 2 of this act shall become operative January 1, 1981.

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:

This act clarifies statutory language to avoid confusion and litigation regarding the application of the Subdivision Map Act to certain types of land subdivisions. In order to accomplish this vital objective at the earliest possible time, it is necessary that this act take immediate effect.

## CHAPTER 1218

An act to add Section 56135 to, and Chapter 4.7 (commencing with Section 56475) to Part 30 of, the Education Code, and Chapter 24 (commencing with Section 7540) to Division 7 of Title 1 of the Government Code, relating to special education and federal funds.

[Approved by Governor September 27, 1980 Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. Section 56135 is added to the Education Code, to read:

56135. (a) The Superintendent shall be responsible for assuring provision of, and supervising, education and related services to handicapped children as specifically required pursuant to Public Law 94-142, the Education for All Handicapped Children Act of 1975.

(b) Nothing in this part shall be construed to authorize the superintendent to prescribe health care services.

SEC. 2. Chapter 4.7 (commencing with Section 56475) is added to Part 30 of the Education Code, to read:

## CHAPTER 4.7. INTERAGENCY AGREEMENTS

56475. The superintendent and the directors of the State Department of Health Services, the State Department of Mental Health, the State Department of Developmental Services, the State Department of Social Services, the Department of Rehabilitation, the Department of the Youth Authority, and the Employment Development Department shall develop written interagency agreements which include fiscal responsibilities for the provision of special education and related services to handicapped children in the State of California.

(b) The superintendent shall develop interagency agreements with other state and local public agencies, as deemed necessary by the superintendent, to carry out the provisions of state and federal law.

(c) (1) Each interagency agreement shall be submitted by the superintendent to each legislative fiscal committee, education committee, and policy committee, responsible for legislation relating to those handicapped children that will be affected by the agreement if it is effective.

(2) An interagency agreement shall not be effective sooner than 30 days after it has been submitted to each of the legislative committees specified in paragraph (2).

56476. (a) If any state agency fails to provide services specified in a child's individualized education program, and such agency is required to provide such services pursuant to federal law, state law, interagency agreement, or any combination thereof, such agency and the reasons for lack of provision shall be identified jointly by the superintendent and the appropriate state agency.

(b) Within 15 calendar days of identification of such a problem, a report of such lack of provision of services shall be made to the secretary of the agency having jurisdiction over the state agency involved. If the services are not provided within 60 days, the issue shall be referred to the Director of Finance who shall, after consultation with the appropriate agency, secretary and the superintendent, take whatever action he or she deems appropriate to ensure that the services are provided. Any state agency providing educationally related services to handicapped children, pursuant to this chapter, shall obtain prior approval from the Department of Finance before reducing or eliminating such services.

SEC. 2. Chapter 24 (commencing with Section 7540) is added to Division 7 of Title 1 of the Government Code, to read:

#### CHAPTER 24. FEDERAL FUNDING

7540. It is the intent of the Legislature to assure receipt of federal funding by the State of California. It is also the intent of the Legislature to assure that if lack of interagency agreement or lack of coordination between state agencies jeopardizes state receipt of federal funds, including, but not limited to, funds available for services to handicapped children, an expeditious process shall exist for resolving such interagency matters.

7541. It is further the intent of the Legislature that there shall be a single line of responsibility with regard to the education of all handicapped children as required by Public Law 94-142. The Superintendent of Public Instruction shall be responsible for supervising education and related services for handicapped children specifically required pursuant to the federal requirements under the Education for All Handicapped Children Act of 1975, Public Law 94-142. Nothing in this chapter shall be construed to relieve another state agency from an otherwise valid obligation to provide or pay for services to a handicapped child. Furthermore, nothing in this chapter shall be interpreted so as to allow the Superintendent of Public Instruction to prescribe health care services.

7542. If any state agency applies for federal funds to meet a mandatory responsibility under federal or state law and such application is not approved, the state agency shall submit to the Department of Finance, the Office of Planning and Research and the Joint Legislative Budget Committee within 15 calendar days of its receipt of notification of the lack of approval of its application all of the following:

(a) An identification of the federal program for which the application was not approved and the federal administering agency

(b) An estimate of the amount of funds affected by the lack of approval of the state agency application

(c) An indication of the reason or reasons the application was not approved

(d) A description of any issues pertaining to responsibilities or actions of other state or local agencies which have affected the lack of approval.

7543. The Joint Legislative Budget Committee shall submit to each member of the appropriate legislative policy committees and to each member of the legislative fiscal committees, within 10 calendar days of receipt of notification of a lack of approval of an application for federal funds reported to it pursuant to Section 7542, a summary of the information specified in subdivisions (a) through (d) of Section 7542.

7544. Any state agency which has not received federal agency approval of an application for funds as described in Section 7542 shall submit to the Department of Finance, the Office of Planning and Research and the Joint Legislative Budget Committee within 30 calendar days of receipt of notification of such lack of approval a plan that includes, but is not limited to:

- (a) Fostering expeditious receipt of the affected federal funds
- (b) Resolving any disagreement or lack of coordination among state agencies or among local agencies which has interfered with federal agency approval of the application for federal funds.

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## CHAPTER 1219

An act to amend Sections 51220, 51231, and 51238 of, and to add Section 51282.3 to, the Government Code, relating to agriculture.

[Approved by Governor September 27, 1980. Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. Section 51220 of the Government Code is amended to read:

51220. The Legislature finds:

(a) That the preservation of a maximum amount of the limited supply of agricultural land is necessary to the conservation of the state's economic resources, and is necessary not only to the maintenance of the agricultural economy of the state, but also for the assurance of adequate, healthful and nutritious food for future residents of this state and nation.

(b) That the agricultural work force is vital to sustaining agricultural productivity; that this work force has the lowest average income of any occupational group in this state; that there exists a need to house this work force of crisis proportions which requires including among agricultural uses the housing of agricultural laborers; and that such use of agricultural land is in the public interest and in conformity with the state's Farmworker Housing Assistance Plan.

(c) That the discouragement of premature and unnecessary conversion of agricultural land to urban uses is a matter of public interest and will be of benefit to urban dwellers themselves in that it will discourage discontinuous urban development patterns which

unnecessarily increase the costs of community services to community residents.

(d) That in a rapidly urbanizing society agricultural lands have a definite public value as open space, and the preservation in agricultural production of such lands, the use of which may be limited under the provisions of this chapter, constitutes an important physical, social, esthetic and economic asset to existing or pending urban or metropolitan developments.

(e) That land within a scenic highway corridor or wildlife habitat area as defined in this chapter has a value to the state because of its scenic beauty and its location adjacent to or within view of a state scenic highway or because it is of great importance as habitat for wildlife and contributes to the preservation or enhancement thereof.

(f) For these reasons, this chapter is necessary for the promotion of the general welfare and the protection of the public interest in agricultural land.

SEC. 2. 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 agricultural laborer housing which are to be 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. 3. 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. 4. Section 51282.3 is added to the Government Code, to read:

51282.3. (a) The landowner may petition the board or council, pursuant to Section 51282, for cancellation of any contract or of any portion of a contract if the board or council has determined that

agricultural laborer housing is not a compatible use on the contracted lands. Such petition, and any subsequent cancellation based thereon, shall: (1) particularly describe the acreage to be subject to cancellation; (2) stipulate that the purpose of the cancellation is to allow the land to be used exclusively for agricultural laborer housing facilities; (3) demonstrate that the contracted lands, or portion thereof, for which cancellation is being sought are reasonably necessary for the development and siting of agricultural laborer housing; and (4) certify that the contracted lands, or portion thereof, for which cancellation is being sought, shall not be converted to any other alternative use within the first 10 years immediately following the cancellation.

Such petition 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; provided, however, that the provisions of Sections 51283 and 51283.1 pertaining to the payment of deferred taxes and cancellation fees shall not be imposed except as provided in subdivision (b).

(b) If the owner of real property is issued a certificate of cancellation of contract based on subdivision (a), there shall be executed and recorded concurrently with the recordation of the certificate of cancellation of contract, a lien in favor of the county, city or city and county in the amount of the fees and taxes which would otherwise have been imposed pursuant to Sections 51283 and 51283.1. Such amounts shall bear interest at the rate of 10 percent per annum. The lien shall particularly describe the real property subject to the lien, shall be recorded in the county where the real property subject to the lien is located, and shall be indexed by the recorder in the grantor index to the name of the owner of the real property and in the grantee index in the name of the county or city or city and county. From the date of recordation the lien shall have the force, effect and priority of a judgment lien. The board or council shall execute and record a release of lien if, after a period of 10 years from the date of the recordation of the certificate of cancellation of contract, the real property subject to the lien has not been converted to a use other than agricultural laborer housing. In the event the real property subject to the lien has been converted to a use other than agricultural laborer housing, or the construction of agricultural laborer housing has not commenced within a period of one year from the date of recordation of the certificate of cancellation of contract, then the lien shall only be released upon payment of the fees, taxes and interest for which the lien has been imposed. Where construction commences after the one-year period the amount of the interest shall only be for that period from one year following the date of the recordation of the certificate of cancellation of contract until the actual commencement of construction.

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. 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.

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## CHAPTER 1220

An act to amend Sections 16113.8, 43073, and 53292 of the Government Code, to amend Sections 99.1 and 26483 of, and to add Section 99.9 to, the Revenue and Taxation Code, and to amend Section 10 of Chapter 852 of the Statutes of 1979, relating to local agencies, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1980. Filed with  
Secretary of State September 29, 1980 ]

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

SECTION 1. Section 16113.8 of the Government Code, as added by Chapter 610 of the Statutes of 1980, is amended 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 and each year thereafter, 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.

(c) 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. 2. Section 43073 of the Government Code is amended to read:

43073. 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 share of property tax allocations applicable to all property within the incorporated limits of the city.

(b) If a legislative body makes an election pursuant to subdivision (a), the county auditor shall reallocate property taxes due to the special district within the incorporated limits of the city to the city.

The county auditor shall report to the State Controller the amount of property taxes reallocated to a city pursuant to this subdivision, as well as the total amount of property taxes allocated to the city pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code. No reallocation made pursuant to this subdivision shall affect any allocations of property tax revenues to the city or special district in subsequent fiscal years pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of Division 1 of the Revenue and Taxation Code.

(c) If a city legislative body makes an election pursuant to subdivision (a), and upon apportionment of taxes by the county, the reallocated amounts 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 by no later than the first day of September of the fiscal year in which the election becomes effective.

(e) For purposes of this section, "special district" means any special district where the county board of supervisors act 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. 3. Section 53292 of the Government Code is amended to read:

53292. Whenever a fire protection district or city fire department is dissolved or the area it serves is decreased by reason of a consolidation, merger, incorporation, annexation, or contract, and the fire protection district or city fire department taking over the duties of the dissolved or decreased district or department decides to hire additional firemen, it shall give first choice for the positions to be filled to firemen employed by the dissolved or decreased

district or department. As nearly as possible, such employees who are hired shall be given positions with a rank comparable to that which they held in the dissolved or decreased district or department. No employee shall be hired who is over the mandatory retirement age of the fire protection district or city fire department which is taking over the duties of the dissolved or decreased district or department.

Where such employees are hired as a result of such consolidation, merger, incorporation, annexation, or contract, the seniority or other employment rights of the employees of the fire protection district or fire department taking over the duties of the dissolved or decreased district or department shall not be impaired as a result of such consolidation, merger, incorporation, annexation, or contract, except as otherwise agreed upon in a county, other than a county of the first class, in a memorandum of understanding with each employee organization, which has been recognized pursuant to Chapter 10 (commencing with Section 3500) of Division 4 of Title 1, and which represents employees of the district or department taking over the duties of the dissolved or decreased district or department who are in classes affected by such consolidation, merger, incorporation, annexation, or contract.

SEC. 4. Section 99.1 of the Revenue and Taxation Code, as added by Chapter 801 of the Statutes of 1980, is amended 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 for such special district.

(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. 5. Section 99.9 is added to the Revenue and Taxation Code, to read:

99.9. No amendment made by any chapter of the Statutes of 1980 to Section 99 of the Revenue and Taxation Code shall be construed, except as expressly provided therein, to apply to a jurisdictional change initiated, pursuant to the applicable provisions of law governing such jurisdictional changes, prior to the effective date of the amendment and the provisions of Section 99 of the Revenue and Taxation Code in effect at the time the jurisdictional change is initiated shall govern the procedures for, and exchange of, property tax revenues between local agencies whose service area or service responsibility would be altered by such jurisdictional change.

SEC. 6. Section 26483 of the Revenue and Taxation Code, as amended by Chapter 610 of the Statutes of 1980, 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 March 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 March 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 10 of Chapter 852 of the Statutes of 1979, as amended by Chapter 801 of the Statutes of 1980, 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 (e) and (f) of Section 99 of the Revenue and Taxation Code shall apply.

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. 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:

A variety of formulas are contained in statutes pertaining to state subventions and the allocation of property tax revenues, including the exchange of property tax revenues between local agencies in the case of jurisdictional changes. Existing law also contains provisions relating to the impairment of seniority and other employment rights of certain fire employees. In order to revise these formulas, to effectuate such subvention and allocations, and to permit certain memorandums of understanding to become effective, as soon as possible, it is necessary that this act take effect immediately.

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## CHAPTER 1221

An act relating to appropriations limits.

[Approved by Governor September 27, 1980 Filed with  
Secretary of State September 29, 1980 ]

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

SECTION 1. The Legislature finds and declares that Article XIII B of the Constitution requires, among other things, that an adjustment be made to the appropriations limit of a local agency when the population of a local agency changes. Pursuant to subdivision (f) of Section 8 of Article XIII B of the Constitution, the Legislature has the authority to determine the method of calculating changes in population so long as the method reflects the periodic census conducted by the federal government. The Legislature further finds and declares that the change in resident population may not accurately reflect the service demands of a charter city and county. There are special circumstances which exist when a charter city and county is a major employment center for an entire metropolitan region. The population growth in the metropolitan region has a direct impact on the service needs of the charter city and county. These special circumstances require a charter city and county to appropriate funds to provide services to nonresidents who are employed and utilize the services of a charter city and county. The purpose of this act is to allow a charter city and county to take into account the growth in the economic base of a charter city and county and the growth in the metropolitan labor market where it can be shown that growth in the economic base, as measured by the increase in assessed value attributable to new construction, requires additional appropriations by the charter city and county.

The Legislature further finds and declares that the method for calculating population for a charter city and county reflects the

periodic census of local agencies which provide the employment base for the charter city and county.

SEC. 2. Notwithstanding any other provision of law, for the purpose of the computations required pursuant to Article XIII B of the Constitution, a charter city and county may adjust its percentage change in population to reflect the percentage change in population in the Standard Consolidated Statistical Area which includes the charter city and county if it finds that the growth in assessed value attributable to new construction exceeds the percentage change in population of the charter city and county and an increase in expenditures is required to provide services for nonresident employees.

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## CHAPTER 1222

An act to add Section 11372.5 to the Health and Safety Code, relating to controlled substance offenses.

[Approved by Governor September 27, 1980 Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. Section 11372.5 is added to the Health and Safety Code, to read:

11372.5. (a) Every person who is convicted of a violation of Section 11350, 11351, 11352, 11358, 11359, 11363, 11364, 11368, 11377, 11378, 11378.5, 11379, 11379.5, or 11383 or subdivision (a), (c) of Section 11357, or subdivision (a) of Section 11360, shall, as part of any fine imposed, pay an increment in the amount of fifty dollars (\$50) for each separate offense. The courts shall increase the total fine as necessary to include this increment.

With respect to those offenses specified in this subdivision for which a fine is not authorized by other provisions of law, the court may upon conviction impose a fine in the amount of fifty dollars (\$50), which shall constitute the increment prescribed by this section and which shall be in addition to any other penalty authorized by law.

(b) The county treasurer shall maintain a criminalistics laboratories fund. The sum of fifty dollars (\$50) shall be deposited into the fund for every conviction under Sections 11350, 11351, 11352, 11358, 11359, 11363, 11364, 11368, 11377, 11378, 11378.5, 11379, 11379.5, or 11383, subdivision (a) or (c) of Section 11357, or subdivision (a) of Section 11360, from fines, forfeitures, and other moneys which are transmitted by the courts to the county treasurer pursuant to Section 11502. Such deposits shall be made prior to any transfer pursuant to Section 11502. The county may retain an amount of such money equal to its administrative cost incurred pursuant to this section. Moneys in the criminalistics laboratories fund shall, except as otherwise provided in this section, be used by the county exclusively

to fund (1) costs incurred by criminalistics laboratories providing microscopic and chemical analyses for controlled substances, in connection with criminal investigations conducted within both the incorporated or unincorporated portions of the county, (2) the purchase and maintenance of equipment for use by these laboratories in performing such analyses, and (3) for continuing education, training, and scientific development of forensic scientists regularly employed by these laboratories. As used in this section, "criminalistics laboratory" means a laboratory operated by, or under contract with, a public agency, including a criminalistics laboratory of the Department of Justice, (1) which has not less than one regularly employed forensic scientist engaged in the analysis of solid-dose controlled substances, and (2) which is registered as an analytical laboratory with the Drug Enforcement Administration of the United States Department of Justice for the possession of all scheduled controlled substances. In counties served by criminalistics laboratories of the Department of Justice, amounts deposited in the criminalistics laboratories fund, after deduction of appropriate county overhead charges attributable to the collection thereof, shall be paid by the county treasurer once a month to the Controller for deposit into the state's General Fund, and shall be excepted from the expenditure requirements otherwise prescribed by this subdivision.

The county treasurer shall, at the conclusion of each fiscal year, determine the amount of any funds remaining in the special fund established pursuant to this section after expenditures for that fiscal year have been made for the purposes herein specified. The county treasurer shall annually distribute such surplus funds in accordance with the allocation scheme for distribution of fines and forfeitures set forth in Section 11502.

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.

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## CHAPTER 1223

An act to amend Sections 11055, 11158 and 11164 of the Health and Safety Code, and to amend Section 1203.07 of the Penal Code, relating to controlled substances.

[Approved by Governor September 27, 1980 Filed with  
Secretary of State September 29, 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, isomer, 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) 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 11158 of the Health and Safety Code is amended to read:

11158. (a) Except as provided in Section 11159 or in subdivision (b) of this section, no controlled substance classified in Schedule II shall be dispensed without a prescription meeting the requirements of this chapter. Except as provided in Section 11159 or when dispensed directly to an ultimate user by a practitioner, other than a pharmacist or pharmacy, no controlled substance classified in Schedule III, IV, or V may be dispensed without a prescription meeting the requirements of this chapter.

(b) A practitioner specified in Section 11150 may dispense directly to an ultimate user a controlled substance classified in Schedule II in an amount not to exceed a 72-hour supply for the patient in accordance with directions for use given by the dispensing practitioner only where the patient is not expected to require any additional amount of the controlled substance beyond the 72 hours. Practitioners dispensing drugs pursuant to this subdivision shall meet the requirements of subdivision (f) of Section 11164.

(c) Except as otherwise prohibited or limited by law, a practitioner specified in Section 11150, may administer controlled substances in the regular practice of his or her profession.

SEC. 3. 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.

(f) In addition to the prescriber's record required by Section 11190, any practitioner dispensing a controlled substance classified in Schedule II in accordance with subdivision (b) of Section 11158 shall prepare a written record thereof on the official forms issued by the Department of Justice, pursuant to Section 11161, and shall transmit a copy to the Department of Justice in accordance with such rules as that department may adopt for completion and transmittal of the forms.

SEC. 4. Section 1203.07 of the Penal Code is amended to read:

1203.07. (a) Notwithstanding the provisions of Section 1203, 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 is convicted of violating Section 11351 of the Health and Safety Code by possessing for sale one-half ounce or more of a substance containing heroin.

(2) Any person who is convicted of violating Section 11352 of the Health and Safety Code by selling or offering to sell one-half ounce or more of a substance containing heroin.

(3) Any person convicted of violating Section 11351 of the Health and Safety Code by possessing heroin for sale or convicted of violating Section 11352 of the Health and Safety Code by selling or offering to sell heroin, and who has one or more prior convictions for

violating Section 11351 or Section 11352 of the Health and Safety Code.

(4) Any person who is convicted of violating Section 11378.5 of the Health and Safety Code by possessing for sale one-half ounce or more of phencyclidine.

(5) Any person who is convicted of violating Section 11379.5 of the Health and Safety Code by selling or offering to sell phencyclidine or by manufacturing phencyclidine.

(6) Any person who is convicted of violating Section 11380.5 of the Health and Safety Code by the use of a minor as an agent or who solicits, induces, encourages, or intimidates a minor with the intent that the minor shall violate the provisions of Section 11378.5 or 11379.5 of the Health and Safety Code.

(7) Any person who is convicted of violating subdivision (b) of Section 11383 of the Health and Safety Code by possessing piperidine and cyclohexanone with intent to manufacture.

(b) 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.

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.

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## CHAPTER 1224

An act relating to chronic lung disease, and making an appropriation therefor.

[Approved by Governor September 27, 1980. Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. The State Department of Health Services shall develop estimates on the extent and prevalence of chronic lung diseases (asthma, bronchitis, emphysema) in the State of California. Such estimates shall include, but not be limited to, the following:

(a) The number of deaths each year in which chronic lung disease was the direct cause or a major contributing factor.

(b) The number of hospitalizations each year due to or lengthened by chronic lung disease.

(c) The prevalence of chronic lung disease among Californians who have not yet been sufficiently impaired by the disease to be reflected in death, disability, or hospitalization statistics.

The department shall prepare such estimates on both a regional and a statewide basis. The department shall utilize, to the extent possible, data available internally and from other governmental and private sources. The department shall transmit such estimates to the Legislature on or before July 1, 1982.

SEC. 2. The sum of sixty thousand dollars (\$60,000) is hereby appropriated from the General Fund to the State Department of Health Services without regard to fiscal years for the purpose of this act.

SEC. 3. The State Department of Health Services shall seek federal funds for the purpose of carrying out the provisions of this act. To the extent that federal funds are made available for the purposes of Section 1 of this act, that portion of the appropriation made by Section 2 shall revert back to the General Fund.

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## CHAPTER 1225

An act making an appropriation to the Department of Justice to pay a specified claim against the state, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 27, 1980 Filed with  
Secretary of State September 29, 1980 ]

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

SECTION 1. The sum of eighty thousand dollars (\$80,000) is hereby appropriated from the Motor Vehicle Account in the State Transportation Fund to the Department of Justice, for settlement of the claims of Forrest Lee Painter and Judy Painter against the State of California in the action entitled Painter et al., v. State of California, et al., brought in the Superior Court of the State of California for the County of Los Angeles, Case No. C 59732.

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 the above-named action against the state, thereby ending the hardship to the named plaintiffs as quickly as possible, it is necessary for this act to take effect immediately.

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## CHAPTER 1226

An act to add Section 19485.5 to the Business and Professions Code, relating to horseracing.

[Approved by Governor September 27, 1980 Filed with  
Secretary of State September 29, 1980 ]

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

SECTION 1. Section 19485.5 is added to the Business and Professions Code, to read:

19485.5. In any city with a population in excess of 2,750,000, no horseracing track shall be established in any flood control basin situated totally within the city on property which contains more than 1,800 acres, and which is owned by the federal government until the city council has called a special election on whether the people in the surrounding area approve of the establishment of a new race track. Such special election shall be conducted in those voting precincts any part of which is situated in the area of the city within three miles of the boundary of the property on which the race track is to be established. Two-thirds of the registered voters who participate in the election and cast ballots shall approve of the establishment of such a horseracing track before the board may issue a license to conduct horseracing at the track.

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CHAPTER 1227

An act to amend Sections 198, 205, and 602 of, and to add Section 610 to, the Code of Civil Procedure, relating to jurors.

[Approved by Governor September 27, 1980. Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. Section 198 of the Code of Civil Procedure is amended to read:

198. A person is competent to act as juror if he or she is:

1. A citizen of the United States of the age of 18 years who meets the residency requirements of electors of this state;

2. In possession of his or her natural faculties and of ordinary intelligence, provided that no person shall be deemed incompetent solely because of the loss of sight or hearing in any degree or other disability which substantially impairs or interferes with the person's mobility; and

3. Possessed of sufficient knowledge of the English language.

Notwithstanding any provision in this section, a person may be challenged for cause upon any ground specified in Section 602.

SEC. 2. Section 205 of the Code of Civil Procedure, as amended by Section 81 of the Statutes of 1980, is amended to read:

205. (a) The qualified jury list shall be drawn from a master jury list or source lists and shall include persons suitable and competent to serve as jurors. In making such selections there shall be taken only the names of persons who are not exempt from serving, who are in the possession of their natural faculties, who are of fair character and approved integrity, and who are of sound judgment.

(b) A person shall not be deemed incompetent, and shall not be excluded from the qualified jury list solely because of the loss of sight or hearing in any degree or other disability which substantially impairs or interferes with the person's mobility.

(c) Notwithstanding any provisions in this section, a person may be challenged for cause upon any ground specified in Section 602.

SEC. 3. Section 602 of the Code of Civil Procedure is amended to read:

602. Challenges for cause may be taken on one or more of the following grounds:

(1) A want of any of the qualifications prescribed by this code to render a person competent as a juror.

(2) A loss of hearing, or the existence of any other incapacity which satisfies the court that the challenged person is incapable of performing the duties of a juror in the particular action without prejudice to the substantial rights of the challenging party.

(3) Consanguinity or affinity within the fourth degree to any party or to an officer of a corporation which is a party.

(4) Standing in the relation of, or being the parent, spouse, or child of one who stands in the relation of, guardian and ward, conservator and conservatee, master and servant, employer and clerk, or principal and agent, or debtor and creditor, to either party or to an officer of a corporation which is a party, or being a member of the family of either party; or a partner in business with either party; or surety on any bond or obligation for either party, or being the holder of bonds or shares of capital stock of a corporation which is a party; or having stood within one year previous to the filing of the complaint in the action in the relation of attorney and client with either party or with the attorney for either party. A depositor of a bank or a holder of a savings account in a savings and loan association shall not be deemed a creditor of such bank or savings and loan association for the purpose of this subsection solely by reason of his being such a depositor or account holder.

(5) Having served as a juror in a civil action or been a witness on a previous trial between the same parties, for the same cause of action; or having served as a juror within one year previously in any civil action or proceeding in which either party was plaintiff or defendant.

(6) Interest on the part of the juror in the event of the action, or in the main question involved in the action, except his interest as a member or citizen or taxpayer of a county, city and county, incorporated city or town, or other political subdivision of a county, or municipal water district.

(7) Having an unqualified opinion or belief as to the merits of the action founded upon knowledge of its material facts or of some of them.

(8) The existence of a state of mind in the juror evincing enmity against or bias to either party.

(9) That he is a party to an action pending in the court for which he is drawn and which action is set for trial before the panel of which he is a member.

SEC. 4. Section 610 is added to the Code of Civil Procedure, to read:

610. (a) If a party does not cause the removal by challenge of an individual juror who is handicapped by loss of hearing in any degree and who requires the services of a sign language interpreter to facilitate communication, the party shall (a) stipulate to the presence of the interpreter in the jury room during jury deliberations and (b) prepare and deliver to the court proposed jury instructions to the interpreter.

(b) If the services of a sign language interpreter are required during the course of jury deliberations, the court shall instruct the jury and the interpreter that the interpreter is not to participate in the jury's deliberations in any manner except to facilitate communication between the deaf juror and other jurors.

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## CHAPTER 1228

An act to amend Sections 21200 and 21200.5 of the Financial Code, relating to pawnbrokers.

[Approved by Governor September 27, 1980. Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. Section 21200 of the Financial Code is amended to read:

21200. Except as provided in Section 21200.5, no pawnbroker shall charge or receive compensation at a rate exceeding the sum of the following:

(a) Two and one-half percent (2½%) per month on that portion of the unpaid principal balance of any loan up to, including, but not in excess of two hundred twenty-five dollars (\$225).

(b) Two percent (2%) per month on that portion of the unpaid principal balance of the loan in excess of two hundred twenty-five dollars (\$225) up to, including, but not exceeding nine hundred dollars (\$900).

(c) One and one-half percent (1½%) per month on that part of the unpaid principal balance in excess of nine hundred dollars (\$900) up to and including, but not in excess of, one thousand six hundred fifty dollars (\$1,650).

(d) One percent (1%) per month on any remainder of such unpaid principal balance in excess of one thousand six hundred fifty dollars (\$1,650).

SEC. 2. Section 21200.5 of the Financial Code is amended to read:

21200.5. A pawnbroker may charge as prescribed in the following schedule:

#### Schedule of Charges

(a) A charge not exceeding one dollar (\$1) may be made on any loan for not more than 30 days which does not exceed fourteen dollars and ninety-nine cents (\$14.99).

(b) A charge not exceeding three dollars (\$3) may be made on any loan for not more than 90 days of fifteen dollars (\$15) or more, but not exceeding nineteen dollars and ninety-nine cents (\$19.99).

(c) A charge not exceeding four dollars (\$4) may be made on any loan for not more than 90 days of twenty dollars (\$20) or more, but not exceeding twenty-four dollars and ninety-nine cents (\$24.99).

(d) A charge not exceeding five dollars (\$5) may be made on any loan for not more than 90 days of twenty-five dollars (\$25) or more, but not exceeding thirty-nine dollars and ninety-nine cents (\$39.99).

(e) A charge not exceeding six dollars (\$6) may be made on any loan for not more than 90 days of forty dollars (\$40) or more, but not exceeding forty-nine dollars and ninety-nine cents (\$49.99).

(f) A charge not exceeding seven dollars and fifty cents (\$7.50) may be made on any loan for not more than 90 days on any loan of fifty dollars (\$50) or more, but not exceeding sixty-four dollars and ninety-nine cents (\$64.99).

(g) A charge not exceeding eight dollars and fifty cents (\$8.50) may be made on any loan for not more than 90 days of sixty-five dollars (\$65) or more, but not exceeding seventy-four dollars and ninety-nine cents (\$74.99).

(h) A charge not exceeding ten dollars (\$10) may be made on any loan for not more than 90 days of seventy-five dollars (\$75) or more, but not exceeding ninety-nine dollars and ninety-nine cents (\$99.99).

(i) A charge not exceeding twelve dollars and fifty cents (\$12.50) may be made on any loan for not more than 90 days of one hundred dollars (\$100) or more, but not exceeding one hundred twenty-four dollars and ninety-nine cents (\$124.99).

(j) A charge not exceeding thirteen dollars and fifty cents (\$13.50) may be made on any loan for not more than 90 days of one hundred twenty-five dollars (\$125) or more, but not exceeding one hundred forty-nine dollars and ninety-nine cents (\$149.99).

(k) A charge not exceeding fifteen dollars (\$15) may be made on any loan for not more than 90 days of one hundred fifty dollars (\$150) or more, but not exceeding two hundred twenty-five dollars (\$225).

(l) The charge for any extension or renewal of a loan covered by this section shall be computed in accordance with the provisions of Section 21200 of this code.

The schedule of charges prescribed by this section shall be posted in a place clearly visible to the general public.

## CHAPTER 1229

An act to amend Sections 224m and 224s of, and to add Section 232.6 to, the Civil Code, and to amend Section 11212 of, and to add Article 13.5 (commencing with Section 396) to Chapter 2 of Part 1 of Division 2 of, the Welfare and Institutions Code, relating to child care, and making an appropriation therefor.

[Approved by Governor September 27, 1980. Filed with  
Secretary of State September 29, 1980 ]

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

SECTION 1. Section 224m of the Civil Code is amended to read:

224m. The father or mother may relinquish a child to a licensed adoption agency for adoption by a written statement signed before two subscribing witnesses and acknowledged before an authorized official of an organization licensed by the State Department of Social Services to find homes for children and place children in homes for adoption. The relinquishment, when reciting that the person making it is entitled to the sole custody of the minor, shall, when duly acknowledged before the officer, be prima facie evidence of the right of the person making it to the sole custody of the child and the person's sole right to relinquish.

A parent who is a minor shall have the right to relinquish his or her child for adoption to a licensed adoption agency and the relinquishment shall not be subject to revocation by reason of the parent's minority.

In cases where a father or mother of a child resides outside the State of California and the child is being cared for and is placed for adoption by an organization licensed by the State Department of Social Services to place children for adoption, the father or mother may relinquish the child to the organization by a written statement signed by the father or mother before a notary on a form prescribed by the organization, and previously signed by an authorized official of the organization, which signifies the willingness of the organization to accept the relinquishment.

The relinquishment authorized by this section shall be of no effect until a certified copy is filed with the State Department of Social Services. Upon filing with the department, the relinquishment is final and may be rescinded only by the mutual consent of the adoption agency and the parent or parents relinquishing the child.

The filing of the relinquishment with the department shall terminate all parental rights and responsibilities with regard to the child.

SEC. 2. Section 224s of the Civil Code is amended to read:

224s. No agency shall place a child for adoption unless the agency has submitted a written report on the child's background and, so far as ascertainable, the medical background of the child's natural

parents, conforming to requirements which shall be specified by the State Department of Social Services, to the prospective adopting parents and such prospective adopting parents have acknowledged in writing the receipt of such report.

The written report on the child's background shall contain all diagnostic information which is known, including current medical reports on the child, psychological evaluation, and scholastic information, as well as all known information regarding the child's developmental history and family life.

The requirements of this section shall not apply to intercountry adoptions.

SEC. 2.5. Section 224s of the Civil Code is amended to read:

224s. (a) No agency shall place a child for adoption unless a written report on the child's background, if available, and, so far as ascertainable, the medical background of the child's birth parents, has been submitted to the prospective adopting parents and the prospective adopting parents have acknowledged in writing the receipt of such report.

The written report on the child's background shall contain all diagnostic information which is known, including current medical reports on the child, psychological evaluation, and scholastic information, as well as all known information regarding the child's developmental history and family life. A copy of any report made on and after January 1, 1982, shall be filed with the State Department of Social Services, and except as provided in Section 224t shall not be open to public inspection. In cases of adoption in which no agency licensed to place children for adoption is a party the report shall be made by the State Department of Social Services or delegated county agency as part of the study required by Section 226.2. The report shall be submitted to the prospective adopting parents who shall acknowledge its receipt in writing.

(b) The State Department of Social Services shall adopt regulations specifying the form and content of the report required by this section. In addition to any other material that may be required by the department, the form shall include inquiries designed to elicit information on any illness, disease, or defect of a genetic or hereditary nature. All licensed adoption agencies shall cooperate with and assist the department in devising a plan that will effectuate the effective and discreet transmission to adoptees or adoptive parents of supplemental medical information reported to the department or the licensed agency, upon the request of the person reporting such medical information.

(c) The requirements of this section shall not apply to stepparent or intercountry adoptions.

SEC. 3. Section 232.6 is added to the Civil Code, to read:

232.6. The purpose of this chapter is to serve the welfare and best interests of a child by providing the stability and security of an adoptive home when those conditions are otherwise missing from his or her life. A declaration of freedom from parental custody and

control pursuant to this chapter terminates all parental rights and responsibilities with regard to the child.

SEC. 4. Article 13.5 (commencing with Section 396) is added to Chapter 2 of Part 1 of Division 2 of the Welfare and Institutions Code, to read:

#### Article 13.5. Foster Care of Children

396. It is the policy of the Legislature that foster care should be a temporary method of care for the children of this state, that children have a right to a normal home life, that reunification with the natural parent or parents or another alternate permanent living situation such as adoption or guardianship are more suitable to a child's well-being than is foster care, and that this state has a responsibility to attempt to ensure that children are given the chance to have a happy and healthy life, and that, to the extent possible, the current practice of moving children receiving foster care services from one foster home to another until they reach the age of majority should be discontinued.

397. In order to carry out the policy stated in Section 396, each county welfare department or probation department shall report to the State Department of Social Services, in the frequency and format determined by the department, foster care characteristic data and care information deemed essential by the department to establish a foster care information system. The report shall include, but not be limited to, elements that identify the factors necessitating foster care placement, the appropriateness of the placement, and the case goal or objective such as reunification, adoption, guardianship, or long-term foster care placement.

398. The department shall report to the Speaker of the Assembly and the Senate Rules Committee on the current status of children placed in foster care. The report shall be submitted on October 1, 1981, and shall include, in addition to the current status of children in foster care, an analysis of foster care service plans in relation to the policy set forth in Section 396.

SEC. 5. Section 11212 of the Welfare and Institutions Code is amended to read:

11212. The state, through the county welfare department, shall reimburse the foster parent or foster parents for the cost of the burial plot and funeral expenses incurred for any child who, at the time of death, is receiving foster care, as defined in Section 11251, to the extent that the foster parent or foster parents are not otherwise reimbursed for costs incurred for such purposes. The state, through the county welfare department, shall pay the burial costs and funeral expenses directly to the funeral home and the burial plot owner when one of the following conditions exists: (a) the foster parent or foster parents request such direct payment or (b) the child's death is due to alleged criminal negligence or other alleged criminal action on the part of the foster parent or foster parents. The foster parent,

or the funeral home and burial plot provider, shall file a claim for reimbursement of costs with the county welfare department at the time and in the manner specified by the department. The county welfare department shall pay such claims in an amount not to exceed the level of reimbursement allowed by the State Board of Control for burial costs and funeral expenses under its Victims of Violent Crimes program, which is contained in Article 1 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code. Claims for the burial costs and funeral expenses for a foster child shall be paid out of funds appropriated annually to the department for such purposes.

SEC. 6. The sum of two hundred fifty thousand dollars (\$250,000) is hereby appropriated from the General Fund to the Controller for allocation and disbursement to local agencies and school districts, pursuant to Section 2231 of the Revenue and Taxation Code, to reimburse them for costs mandated by the state and incurred by them pursuant to this act.

Subsequent appropriations shall be subject to the Budget Act.

SEC. 7. It is the intent of the Legislature, if this bill and Assembly Bill No. 1426 are both chaptered and become effective January 1, 1980, both bills amend Section 224s of the Civil Code, and this bill is chaptered after Assembly Bill No. 1426, that the amendments to Section 224s proposed by both bills be given effect and incorporated in Section 224s 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 Assembly Bill No. 1426 are both chaptered and become effective January 1, 1980, both amend Section 224s, and this bill is chaptered after Assembly Bill No. 1426, in which case Section 2 of this act shall not become operative.

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## CHAPTER 1230

An act to amend Sections 73101, 73101.5, 73107, 73110, 73113, 73113.5, 73114, 73122, 73643, 73644, 73648, 73951, 73953, 73958, 74342, 74343, 74343.1, 74350, 74357, 74364, 74374, 74376, 74743, and 74746 of, and to add Article 35.5 (commencing with Section 74915) to Chapter 10 of Title 8 of, the Government Code, relating to courts.

[Approved by Governor September 27, 1980 Filed with  
Secretary of State September 29, 1980 ]

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

SECTION 1. Section 73101 of the Government Code is amended to read:

73101. The San Bernardino County Municipal Court District shall consist of the following divisions, embracing that territory which is within the following judicial districts in the County of San

Bernardino on the date specified, and as such divisions are thereafter modified by the board of supervisors or operation of law.

(a) On November 8, 1967:

(1) East Division—that territory within the Redlands Judicial District. On March 14, 1979, that territory within the Highland and Yucaipa Judicial Districts.

(2) Central Division—that territory within the San Bernardino Judicial District. On October 1, 1980, that territory within the Colton, Crest Forest and Mission Judicial Districts.

(3) Valley Division—that territory within the Fontana and Rialto Judicial Districts. On January 1, 1979, that territory within the Bloomington Judicial District.

(4) West Valley Division—that territory within the West Valley Municipal Court District. On January 12, 1981, that territory within the Cucamonga-Etiwanda Judicial District.

(5) Victorville Division—that territory within the Victor Judicial District.

(b) On August 5, 1973:

(1) Barstow Division—that territory within the Barstow and Yermo-Belleville Judicial Districts.

(c) On November 26, 1973:

(1) Chino Division—that territory within the Chino Judicial District.

(d) On March 5, 1978:

(1) Rancho Cucamonga Division—that territory within the Cucamonga-Etiwanda Judicial District. On January 12, 1981, the Rancho Cucamonga Division shall be annexed to the West Valley Division.

(e) On July 1, 1979:

(1) Morongo Basin Division—that territory within the Twenty-nine Palms Judicial District.

SEC. 1.1. Section 73101.5 of the Government Code is amended to read:

73101.5. There shall be the following number of judges in divisions of the San Bernardino County Municipal Court District: in the East Division, two; in the Central Division, four; in the Valley Division, two; in the West Valley Division, five; in the Victorville Division, two; in the Barstow Division, one; in the Chino Division, one; and in the Morongo Basin Division, one.

SEC. 1.2. Section 73107 of the Government Code is amended to read:

73107. There shall be one clerk of the San Bernardino County Municipal Court District to be known as the municipal court administrator who shall be appointed by a majority vote of the council of supervising judges from among applicants certified to such council on the basis of a competitive examination pursuant to personnel rules and regulations of the County of San Bernardino. He shall receive a salary at a rate specified in range 104 of the salary schedule effective on June 28, 1980, range 104 effective on December

27, 1980 and range 107 effective on June 27, 1981. He shall be the appointing authority for those positions listed in Section 73113.

SEC. 1.3. Section 73110 of the Government Code is amended to read:

73110. There shall be one marshal of the San Bernardino County Municipal Court District who shall be appointed by, and serve at the pleasure of, a majority of the council of supervising judges and who shall receive a salary at a rate specified in range 103 of the salary schedule effective on June 28, 1980. The marshal shall be the appointing power for those positions listed in Section 73113 as being appointed by the marshal.

SEC. 1.4. Section 73113 of the Government Code is amended to read:

73113. The number of positions within each job classification which may be filled by appointment by the municipal court administrator and the marshal and the salary range prescribed in Section 73113.5 which constitutes the compensation for each job classification are as follows:

**Appointed by the Municipal Court Administrator**

Job classification	Number	Salary range 6/28/80	Salary range 12/27/80	Salary range 6/27/81	Salary range 6/26/82
Management analyst I .....	1	91	91	94	97
Municipal court division manager II	2	92	92	95	98
Municipal court division manager I ..	7	88	88	91	94
Data-processing analyst ...	1	86	86	89	92
Municipal court division supervisor II	2	84	84	87	90
Municipal court chief clerk .....	5	77	77	80	83
Municipal court division supervisor I	1	74	74	77	80
Municipal court clerk II	28	74	74	77	80
Clerk IV .....	9	67	67	70	73
Fiscal clerk II	5	64	64	67	70
Fiscal clerk III	2	69	69	72	75

Clerk III .....	41	63	63	66	69
Clerk II .....	3	56	56	59	61
Public information clerk	1	57	57	60	63
Legal procedures clerk I	28	65	65	68	71
Legal procedures clerk II.....	1	71	71	74	77

**Appointed by Marshal**

Classification	Num-ber	Salary Range			
		6/28/80	12/27/80	6/27/81	6/26/82
Marshal's captain .....	3	98			
Marshal's lieutenant .....	5	94			
Marshal's sergeant .....	7	90			
Deputy marshal .....	44	79			
Administrative clerk I .....	1	70	70	73	76
Marshal's clerk II .....	10	64	64	67	70
Marshal's clerk I .....	9	59	59	62	65
Marshal's technician .....	18	65	65	68	71
Marshal's radio dispatch clerk .....	4	61	61	64	67

Effective June 28, 1980, the salary range for marshal's captain, marshal's lieutenant, and marshal's sergeant shall be increased by an amount equal to 9¼ percent over and above the existing salary range.

Effective June 28, 1980, the salary range for deputy marshal shall be increased by an amount equal to 10½ percent over and above the existing salary range. Effective June 28, 1980, the flat hourly rate for deputy marshal probationary shall be increased by an amount equal to 10½ percent over and above the existing flat hourly rate set forth below.

The marshal shall also appoint as many deputy marshal keepers as may be required by law. The deputy marshal keepers shall be compensated at the fee allowed by law for keeping property.

In hiring for vacancies in the position of deputy marshal, the marshal may appoint successful candidates as deputy marshal probationary at a flat hourly rate of six dollars and eighty-six cents

(\$6.86) per hour until successful completion of a probationary period of one year, except that the marshal may extend the probationary period for not to exceed six months, after which the deputy marshal probationary shall be advanced to the deputy marshal classification at the "A" step of the appropriate salary range.

SEC. 1.5. Section 73113.5 of the Government Code, as amended by Chapter 747 of the Statutes of 1980, 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 1, 1980, 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. 1.6. Section 73114 of the Government Code is amended to read:

73114. By order entered in the minutes of the court, a majority of the supervising judges may appoint up to three secretaries as the business of the court requires, to be classified as secretary II. Each shall receive a salary at a rate specified in range 70 of the salary schedule effective on June 28, 1980, range 71 effective on December 27, 1980, range 74 effective on June 27, 1981, and range 77 effective on June 26, 1982, and be otherwise subject to the salary plan provided by Section 73113.5.

SEC. 1.7. Section 73122 of the Government Code is amended to read:

73122. By majority vote, the council of supervising judges may appoint one supervising own-recognizance investigator who shall receive a salary at a rate specified in range 83 of the salary schedule effective on June 28, 1980, range 83 effective on December 27, 1980, range 86 effective on June 27, 1981, and range 89 effective on June 26, 1982, and four own-recognizance investigators who shall receive a salary at a rate specified in range 80 of the salary schedule effective on June 28, 1980, range 80 effective on December 27, 1980, range 83 effective on June 27, 1981 and range 86 effective on June 26, 1982, and

be otherwise subject to the salary plan provided by Section 73113.5. Any such appointment shall not be operative until approved by a majority vote of a committee composed of one representative of the council of supervising judges, one representative of the superior court judges of the county, and one representative of the county sheriff.

SEC. 1.8. Section 73643 of the Government Code is amended to read:

73643. The clerk-administrative officer may appoint with the approval of the judges:

(a) One assistant clerk-administrative officer. In no event shall the compensation of the assistant clerk-administrative officer be more than 20 percent below that specified for the assistant clerk of the San Diego Judicial District.

(b) Three deputy clerks each of whom shall be a chief clerk of division and who shall receive a biweekly salary at a rate not less than 10 percent higher than that specified for assistant chief clerk.

(c) Six supervising deputy clerks, each of whom shall receive a biweekly salary at a rate not less than 10 percent higher than that specified for deputy clerk IV.

(d) Thirteen deputy clerks IV, each of whom shall receive a biweekly salary at a rate equal to that specified for superior court clerk in the classified service of the County of San Diego.

(e) Forty-five deputy clerks III, II or I, as the case may be. Each deputy clerk III shall receive a biweekly salary at a rate not more than 20 percent below that specified for deputy clerk IV. Each deputy clerk II shall receive a biweekly salary at a rate not more than 20 percent below that specified for deputy clerk III. Each deputy clerk I shall receive a biweekly salary at a rate equal to that specified for the classification of intermediate clerk-typist in the classified service of San Diego County. At the discretion of the clerk-administrative officer, appointments to the deputy clerk I classification may be at any step within the salary range.

(f) Four deputy clerk data entry operators, each of whom shall receive a biweekly salary at a rate equal to that specified for the classification of data entry operator in the classified service of San Diego County. At the election of the clerk-administrative officer, one of such deputy clerks may be assigned as data entry supervisor and upon such assignment shall receive a biweekly salary at a rate 5 percent higher than that specified herein.

(g) One deputy clerk administrative secretary who shall receive a biweekly salary at a rate equal to that specified for administrative secretary III in the classified service of the County of San Diego. Appointment to such position shall be at step D. Whenever the salary of administrative secretary III is adjusted by the board of supervisors, a commensurate adjustment shall be made to the salary of the deputy clerk administrative secretary. The deputy clerk administrative secretary shall receive the same privileges and benefits as are received by the classification of administrative secretary III in the

classified service of San Diego County.

(h) One deputy clerk interpreter who shall receive a biweekly salary at a rate equal to that specified for deputy clerk III.

(i) Any deputy clerk performing bilingual duties as certified by the clerk-administrative officer shall be paid additional compensation at the biweekly rate determined by the clerk-administrative officer as specified for bilingual ability in the salary ordinance of the County of San Diego.

The value in dollars of each salary provided for herein shall be at the rates indicated opposite the respective deputy clerk category in the salary schedule incorporated by Section 74343.1, and the provisions of subdivisions (a), (b), (c), (d), (e) and (f) of that section are applicable to the attachés appointed pursuant to this section. In no event shall the salary of the clerk-administrative officer, assistant clerk-administrative officer or any deputy clerk who occupied his position on the day prior to the effective date of this section be less than his salary on such day.

SEC. 2. Section 73644 of the Government Code is amended to read:

73644. By order entered in the minutes of the court, a majority of judges may appoint two judicial secretaries who shall be attachés of the court. The judicial secretary shall receive a biweekly salary at a rate equal to that specified for administrative secretary IV in the classified service of the County of San Diego commencing at step D at initial employment and advancing to step E at the end of one year of continuous service.

The position of judicial secretary shall be deemed comparable to the position of administrative secretary IV in the classified service of San Diego County. Whenever the salary of administrative secretary IV is adjusted by the Board of Supervisors of San Diego County, the salary of the judicial secretaries shall be adjusted a commensurate percentage in the salary schedule on the same date, such adjustments to take effect on the effective date of any amendments to this article enacted at the 1980-81 Regular Session of the Legislature. Any salary adjustments made as a result of this section shall be effective only until January 1, 1984.

Notwithstanding the provisions of Section 73648, the judicial secretaries shall receive and be entitled to the same vacations, sick leave, leaves of absence and similar privileges and benefits as are now or may hereafter be provided for administrative secretary IV in the classified service of the County of San Diego; provided, however, that the majority of the municipal court judges may adopt rules to provide for vacations, sick leave, leaves of absence and similar privileges and benefits different from those for administrative secretary IV in the classified service of the County of San Diego.

SEC. 3. Section 73648 of the Government Code is amended to read:

73648. (a) All persons holding positions on the effective date of any amendments to this article shall continue in their respective

positions without further examination or qualification and at the added compensation provided in this article, including increments for continuous prior service in such positions in the court. Any person whose title is changed as a result of any amendments to this article shall receive credit for continued service to which he would be entitled under his previous position and shall receive compensation at the step covering such length of service. Thereafter, any increments earned by additional service in grade shall take effect upon the first day of the pay period following completion of such required service.

(b) In addition to the compensation provided in this article, the classifications of attachés of the municipal court shall receive, and they shall be entitled to the same vacations, holidays, sick leave, leaves of absence, bilingual pay, merit pay increases, retirement benefits and similar privileges and benefits as are now or may hereafter be provided for the employees of the County of San Diego in the comparable classifications specified in subdivision (e) of Section 74343.1, including the right to participate in a retirement plan, and in any group health, accident or life insurance plan adopted by the Board of Supervisors of San Diego County, and in the tuition refund and suggestion awards programs adopted by the board. For purposes of this subdivision only, the clerk-administrative officer and assistant clerk-administrative officer shall receive the same privileges and benefits as are received by the classification of chief probation officer of the classified civil service of the County of San Diego. Chief clerks of division, and assistant chief clerks of division shall receive the same privileges and benefits as are received by the classification of administrative assistant III of the classified service of the County of San Diego. The term "same privileges and benefits" for purposes of this section shall include, but not be limited to, any benefits which are available to comparable classifications in the classified civil service of San Diego County pursuant to the provisions of any ordinance of the County of San Diego which credit to a member of the San Diego County Employees Retirement System extra days or fractions thereof, of service for retirement purposes for each day of uncompensated sick leave and deferred compensation benefits. Changes in privileges and benefits shall be effective on the same date as those for employees of the County of San Diego in comparable classifications. The majority of all the municipal court judges may adopt rules for the conduct of and personnel privileges to be afforded the attachés of the court.

(c) All attachés may be appointed, promoted, removed, suspended or discharged for cause by the appointing authority subject in such appointment, promotion, removal, suspension or discharge to civil service provisions applicable to the classified personnel of San Diego County. Whenever a person or attaché is appointed or promoted to a position, such person or attaché shall serve a probationary period of at least six months.

(d) Notwithstanding the provisions of Section 71183, a person

appointed by the clerk-administrative officer from an eligible list certified by the Civil Service Commission of the County of San Diego to fill a temporary position established pursuant to Section 72150 and employed in such temporary position immediately prior to the effective date of any amendments to this article, may be appointed by such clerk-administrative officer to a like permanent position in such clerk-administrative officer's office without further examination, qualification or certification on a civil service eligible list; provided, that the number of such positions in the clerk-administrative officer's office has been increased so as to make such temporary position a permanent position.

SEC. 3.5. Section 73951 of the Government Code is amended to read:

73951. There shall be nine judges.

SEC. 4. Section 73953 of the Government Code is amended to read:

73953. The clerk-administrative officer may appoint:

(a) One assistant clerk-administrative officer. In no event shall the compensation of the assistant clerk-administrative officer be more than 20 percent below that specified for the assistant clerk-administrative officer of the San Diego Judicial District.

(b) Two deputy clerks who shall be chief clerks of divisions and who shall receive a biweekly salary at a rate not less than 10 percent higher than that specified for assistant chief clerk of division.

(c) Two deputy clerks who shall be assistant chief clerks of division and who shall receive a biweekly salary at a rate not less than 10 percent higher than that specified for supervising deputy clerk.

(d) Two supervising deputy clerks who shall receive the biweekly salary at a rate not less than 10 percent higher than that specified for deputy clerk IV.

(e) Eleven deputy clerks IV, each of whom shall receive the biweekly salary at a rate equal to that specified for superior court clerks in the classified service of San Diego County.

(f) Fifty-seven deputy clerks III, II or I, as the case may be. Each deputy clerk III shall receive the biweekly salary at a rate not more than 20 percent below that specified for deputy clerk IV. Each deputy clerk II shall receive the biweekly salary at a rate not more than 20 percent below that specified for deputy clerk III. Each deputy clerk I shall receive the biweekly salary equal to that specified for the classification of intermediate clerk-typist in the classified service of San Diego County. Appointments to the deputy clerk I classification shall be at a salary range entrance step determined by the clerk-administrative officer.

(g) Two deputy clerk data entry operators, each of whom shall receive the biweekly salary at a rate equal to that specified for data entry operators in the classified service of San Diego County.

(h) One deputy clerk stenographer who shall receive a biweekly salary at a rate equal to that specified for administrative secretary IV in the classified service of San Diego County. Notwithstanding the

provisions of Section 74343.1, at such time as the court appoints a judicial secretary pursuant to subdivision (j), the comparable county classification to deputy clerk stenographer for purposes of salary and rate of salary increase shall become judicial secretary and for purposes of privileges and benefits, administrative secretary III.

(i) One deputy clerk interpreter who shall receive the biweekly salary at the rate equal to that specified for deputy clerk III.

(j) One judicial secretary who shall receive a biweekly salary at a rate equal to that specified for assistant secretary (judicial) of the Superior Court of the County of San Diego.

(k) Any person occupying a position specified in subdivision (f) and performing bilingual duties as certified by the clerk-administrative officer shall be paid additional compensation at the biweekly rate specified for bilingual ability in the salary ordinance of the County of San Diego.

(l) The value in dollars of each salary provided for herein shall be at the rates indicated opposite the respective deputy clerk category in the salary schedule incorporated by Section 74343.1, and the provisions of subdivisions (a), (b), (c), (d), (e), and (f) of that section are applicable to the attachés appointed pursuant to this section. In no event shall the salary of the clerk-administrative officer, assistant clerk-administrative officer or any deputy clerk who occupied his position on the day prior to the effective date of this section be less than his salary on such day.

SEC. 5. Section 73958 of the Government Code is amended to read:

73958. (a) All persons holding positions on the effective date of any amendments to this article shall continue in their respective positions without further examination or qualification and at the added compensation provided in this article, including increments for continuous prior service in such positions in the court. Any person whose title is changed as a result of any amendments to this article shall receive credit for continued service to which he would be entitled under his previous position and shall receive compensation at the step covering such length of service. Thereafter, any increments earned by additional service in grade shall take effect upon the first day of the pay period following completion of such required service.

(b) In addition to the compensation provided in this article, the classifications of attachés of the municipal court shall receive, and they shall be entitled to the same vacations, holidays, sick leave, leaves of absence, bilingual pay, merit pay increases, retirement benefits and similar privileges and benefits as are now or may hereafter be provided for the employees of the County of San Diego in the comparable classifications specified in subdivision (e) of Section 74343.1, including the right to participate in a retirement plan, in any group health, accident or life insurance plan, and in the tuition refund and suggestion awards programs adopted by the Board of Supervisors of San Diego County. For purposes of this

subdivision only, the clerk-administrative officer, and assistant clerk-administrative officer, shall receive the same privileges and benefits as are received by the classification of chief probation officer of the classified service of the County of San Diego. Chief clerks of division, and assistant chief clerks of division shall receive the same privileges and benefits as are received by the classification of administrative assistant III of the classified service of the County of San Diego. The term "same privileges and benefits" for purposes of this section shall include, but not be limited to, any benefits which are available to comparable classifications in the classified civil service of San Diego County pursuant to the provisions of any ordinance of the County of San Diego which credit to a member of the San Diego County Employees Retirement System extra days or fractions thereof, of service for retirement purposes for each day of uncompensated sick leave. Changes and privileges and benefits shall be effective on the same date as they are for employees of the County of San Diego in comparable classifications. The majority of all the municipal court judges may adopt rules for the conduct of and personnel privileges to be afforded the attachés of the court.

(c) All attachés may be appointed, promoted, removed, suspended or discharged for cause by the appointing authority subject in such appointment, promotion, removal, suspension or discharge to civil service provisions applicable to the classified personnel of San Diego County. Whenever a person or attaché is appointed or promoted to a position, such person or attaché must serve a probationary period of at least six months.

(d) Notwithstanding the provisions of Section 71183, a person appointed by the clerk from an eligible list certified by the Civil Service Commission of the County of San Diego to fill a temporary position established pursuant to Section 72150 and employed in such temporary position immediately prior to the effective date of any amendments to this article, may be appointed by such clerk to a like permanent position in such clerk's office without further examination, qualification or certification on a civil service eligible list; provided, that the number of such positions in the clerk's office has been increased so as to make such temporary position a permanent position.

SEC. 6. Section 74342 of the Government Code is amended to read:

74342. There shall be one clerk-administrative officer who shall be appointed by a majority of the judges of the court and who, notwithstanding the provisions of Section 74343.1, shall serve at the pleasure of the judges. He or she shall receive a biweekly salary at a rate specified in the salary schedule provided in Section 74343.1. In no event shall the compensation of the clerk-administrative officer be less than 30 percent higher than that specified for the position of assistant clerk-administrative officer.

SEC. 7. Section 74343 of the Government Code is amended to read:

74343. The clerk-administrative officer may appoint:

(a) One assistant clerk-administrative officer, with the consent of a majority of the judges of the court, who shall be empowered to act in the place and stead of the clerk-administrative officer in the event that the clerk-administrative officer is absent or unavailable for any reason and who shall receive a biweekly salary at a rate specified in the salary schedule provided in Section 74343.1. In no event shall the salary of the assistant clerk-administrative officer be less than 37½ percent higher than that specified for the position of chief clerk.

(b) Five deputy clerks each of whom shall be chief clerks of division and who shall receive a biweekly salary at the rate specified in the salary schedule provided in Section 74343.1. In no event shall the salary be less than 10 percent higher than that specified for assistant chief clerk of division.

(c) Five deputy clerks each of whom shall be assistant chief clerks of division and who shall receive a biweekly salary at a rate specified in the salary schedule provided in Section 74343.1. In no event shall the salary be less than 10 percent higher than that specified for supervising deputy clerk.

(d) Five supervising deputy clerks each of whom shall receive a biweekly salary at a rate specified in the salary schedule provided in Section 74343.1. In no event shall the salary be less than 10 percent higher than that specified for deputy clerk IV.

(e) Forty deputy clerks IV, each of whom shall receive a biweekly salary at a rate specified in the salary schedule provided in Section 74343.1. The salary shall be equal to that specified for superior court clerks in the classified service in the County of San Diego.

(f) One deputy clerk data entry supervisor who shall receive a biweekly salary at a rate specified in the salary schedule provided in Section 74343.1.

(g) One hundred fifty-two deputy clerks III, II, or I, as the case may be, each of whom shall receive a biweekly salary at a rate specified in the salary schedule provided in Section 74343.1. Each deputy clerk III shall receive a biweekly salary at a rate not more than 20 percent below that specified for deputy clerk IV. Each deputy clerk II shall receive a biweekly salary at a rate not more than 20 percent below that specified for a deputy clerk III. Each of the deputy clerks I shall receive a biweekly salary equal to that specified for the classification of intermediate clerk-typist in the classified service of the County of San Diego. Appointments to the deputy clerk I classification may be at any step within the salary range at the discretion of the clerk-administrative officer.

(h) Eleven deputy clerk data entry operators who shall receive a biweekly salary at a rate specified in the salary schedule provided in Section 74343.1.

(i) Four deputy clerk interpreters, each of whom shall receive a biweekly salary at a rate specified in the salary schedule provided in Section 74343.1, equal to that specified for deputy clerk III.

(j) One deputy clerk-administrative secretary who shall receive a

biweekly salary at a rate equal to that specified for administrative secretary III of the classified service in the County of San Diego. Appointment to such position shall be at step D. Whenever the salary of administrative secretary III of the classified service in the County of San Diego is adjusted by the Board of Supervisors of San Diego County, the salary of deputy clerk-administrative secretary shall be adjusted a commensurate percentage in the salary schedule and shall be effective on the same date.

(k) The eight deputy clerks assigned by the clerk-administrative officer as clerks in the presiding department, criminal arraignment departments (two deputies), traffic arraignment departments (two deputies), civil proceedings department, trial setting department, and child support department, while serving in those capacities at a level of deputy clerk III or below, shall receive a biweekly salary at a rate 5 percent higher than that which such deputy clerks were receiving prior to such assignment.

(l) Any person occupying a position specified in subdivision (g) and performing bilingual duties as certified by the clerk-administrative officer shall be paid additional compensation at the biweekly rate determined by the clerk-administrative officer as specified for bilingual ability in the salary ordinance of the County of San Diego.

SEC. 8. Section 74343.1 of the Government Code is amended to read:

74343.1. The salary schedule adopted by the Board of Supervisors of San Diego County for compensation of classified personnel is adopted and by reference incorporated herein.

(a) The following biweekly salary schedule, which is consistent with the salary schedule adopted by the Board of Supervisors of San Diego County for compensation of classified personnel and by reference incorporated herein, shall apply to the personnel of the municipal courts within the County of San Diego, and whenever reference to a salary range is made in any section of this article, this schedule of biweekly salaries shall apply:

Municipal

Court

Classification	Range	Step A	Step B	Step C	Step D	Step E
Clerk-Administrative officer .....	66.06	\$1492.80	\$1567.20	\$1645.60	\$1727.20	\$1814.40
Asst. Clerk-Administrative Officer .....	60.06	1113.60	1168.80	1228.00	1289.60	1353.60
Deputy Clerk, Chief Clerk .....	52.56	772.00	811.20	851.20	893.60	938.40
Deputy Clerk, Asst. Chief Clerk .....	50.56	700.80	735.20	772.00	811.20	851.20

Supervising						
Deputy Clerk .....	48.56	634.40	667.20	700.80	735.20	772.00
Deputy Clerk IV ..	46.56	576.00	604.80	634.40	667.20	700.80
Deputy Clerk III ....	42.56	473.60	497.60	552.40	548.80	576.00
Deputy Clerk II .....	38.56	389.60	409.60	430.40	451.20	473.60
Deputy Clerk I .....	36.52	352.80	370.40	388.80	408.80	429.60
Deputy Clerk						
Interpreter .....	42.56	473.60	497.60	522.40	548.80	576.00
Deputy Clerk-						
Administrative						
Secretary .....	42.38	—	—	—	544.00	571.20
Deputy Clerk						
Data Entry						
Supervisor .....	41.76	455.20	478.40	502.40	527.20	554.40
Deputy Clerk						
Data Entry						
Operator .....	39.10	400.00	420.80	441.60	463.20	486.40
Chief Judicial						
Secretary .....	48.68	—	—	—	—	776.80
Judicial						
Secretary .....	44.10	—	—	—	592.00	620.80

(b) Unless otherwise specifically provided, each person appointed or promoted to a position, the compensation of which is fixed by reference to the salary schedule set forth in this section, shall, for the first six months of service, receive biweekly the rate of compensation specified in step A of the salary schedule for the position to which he is appointed. Upon the first day of the pay period following six months continuous service in step A, the initial rate of compensation of such person shall be increased to step B of the salary schedule for the position occupied. Upon the first day of the pay period following six months continuous service in step B, the initial rate of compensation of such person shall be increased to step C of the salary schedule for the position occupied. On and after the first day of the pay period following six months of continuous service at step C, such compensation shall be increased to step D of the salary schedule. On and after the first day of the pay period following 12 months of continuous service at step D, such compensation shall be increased to step E of the salary schedule.

The provisions of this subdivision shall not apply to any person employed on and after January 1, 1975, and any such person shall be entitled to receive the same step increases as set forth in the salary ordinance of the County of San Diego in effect July 1, 1974, for those persons employed by the County of San Diego on or after July 1, 1974.

(c) When any person in the service of the County of San Diego or in the service of another municipal court in San Diego County is appointed to a position in the service of the court compensated at a higher salary range than the salary range for the position relinquished or when any person in the service of the court is

appointed or promoted to another position in such service compensated at a higher salary, he or she shall receive step A of such schedule if step A is at least one step higher than the salary received in the position relinquished; but if not, he or she shall receive initially that step schedule pertaining to such position which will provide a one-step increase in his or her compensation.

(d) Officers and attachés may be voluntarily transferred from a position in the service of a court in one judicial district to a position in the service of a court in another judicial district within the County of San Diego, from a position in the service of the County of San Diego to a position in the service of a court, from a position in the service of a court to a position in the service of the County of San Diego, or between the offices of clerk-administrative officer and marshal in the same manner that classified employees of the County of San Diego may be transferred between departments of the county. In determining the step of the salary schedule at which such transferred employee shall be paid, the employee may be given credit for continuous prior service in the service of the court or the County of San Diego from which he or she was transferred.

(e) When any person in the service of the court is demoted to another position he or she shall receive compensation at the highest step of the salary schedule applicable to the position to which he or she is demoted which provides a salary not higher than that previously received by such person, except that if such demotion is due to disciplinary action, the appointing authority may specify any step rate of such schedule which provides compensation not higher than that last previously received by such person.

(f) The hereinafter enumerated classes of positions in the court are deemed to be comparable in job level to certain classifications in the civil service of San Diego County and whenever the salaries of such classifications in the service of San Diego County are adjusted by the board of supervisors, the salaries of the comparable classifications in the office of the clerk-administrative officer shall be adjusted a commensurate percentage in the salary schedule. Such adjustment shall not be more than 20 percent higher or 20 percent lower than the salary schedule specified in this article. 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 the county classifications. In the event that the salary of any of the San Diego County classifications listed in this section are adjusted by the board of supervisors on any day prior to the effective date of any amendments to this article enacted by the Legislature at the 1980-81 Regular Session of the Legislature, commensurate adjustments shall be applied to the salaries of the comparable classifications in the clerk-administrative officer's office, such adjustments to take effect on the effective date of any amendments to this article enacted at the 1979-80 Regular Session of the Legislature. Any salary adjustments made as a result of this section shall be effective only until January 1, 1984. The comparable classifications are as follows:

Municipal court classification	County classification
Deputy clerk, chief clerk .....	Superior court clerk
Deputy clerk, assistant chief clerk .....	Superior court clerk
Deputy clerk I .....	Intermediate clerk
Deputy clerk II .....	Superior court clerk
Deputy clerk III .....	Superior court clerk
Deputy clerk IV .....	Superior court clerk
Supervising deputy clerk .....	Superior court clerk
Deputy clerk data entry supervisor .....	Data entry supervisor
Deputy clerk data entry operator .....	Data entry operator
Deputy clerk interpreter .....	Superior court clerk
Deputy clerk stenographer .....	Administrative secretary III

SEC. 9. Section 74350 of the Government Code is amended to read:

74350. (a) All persons holding positions on the effective date of any amendments to this article shall continue in their respective positions without further examination or qualification and at the added compensation provided in this article, including increments for continuous prior service in such positions in the court. Any person whose title is changed as a result of any amendments to this article shall receive credit for continued service to which he or she would be entitled under his or her previous position and shall receive compensation at the step covering such length of service. Thereafter, any increments earned by additional service in grade shall take effect upon the first day of the pay period following completion of such required service.

(b) In addition to the compensation provided in this article, the classifications of attachés of the municipal court shall receive, and they shall be entitled to the same vacations, holidays, sick leave, leaves of absence, bilingual pay, merit pay increases, retirement benefits and similar privileges and benefits as are now or may hereafter be provided for the employees of the County of San Diego in the comparable classifications specified in Section 74341.1, including the right to participate in a retirement plan, in any group health, accident or life insurance plan adopted by the Board of Supervisors of San Diego County, and in the tuition refund and suggestion awards programs adopted by the board. For purposes of this subdivision only, the clerk-administrative officer and assistant clerk-administrative officer shall receive the same privileges and benefits as are received by the classification of chief probation officer, of the classified service of the County of San Diego. The chief clerks and assistant chief clerks shall receive the same privileges and benefits as are received by the classification of administrative assistant III of the classified service of the County of San Diego. The term "same privileges and benefits" for the purposes of this section

shall include, but not be limited to, any benefits which are available to comparable classifications in the classified civil service of San Diego County pursuant to the provisions of any ordinance of the County of San Diego which credit to a member of the San Diego County Employees Retirement System extra days or fractions thereof, of service for retirement purposes for each day of uncompensated sick leave. Changes in privileges and benefits shall be effective on the same date as those for employees of the County of San Diego in comparable classifications. The majority of all the municipal court judges may adopt rules for the conduct of and personnel privileges to be afforded the attachés of the court.

(c) All attachés may be appointed, promoted, removed, suspended or discharged for cause by the appointing authority subject in such appointment, promotion, removal, suspension or discharge to civil service provisions applicable to the classified personnel of San Diego County. Whenever a person or attaché is appointed or promoted to a position, such person or attaché must serve a probationary period of at least six months.

(d) Notwithstanding the provisions of Section 71183, a person appointed by the clerk-administrative officer from an eligible list certified by the Civil Service Commission of the County of San Diego to fill a temporary position established pursuant to Section 72150 and employed in such temporary position immediately prior to the effective date of any amendments to this article, may be appointed by such clerk-administrative officer to a like permanent position in such clerk-administrative officer's office without further examination, qualification or certification on a civil service eligible list; provided, that the number of such positions in the clerk-administrative officer's office has been increased so as to make such temporary position a permanent position.

SEC. 10. Section 74357 of the Government Code is amended to read:

74357. By order entered upon the minutes of the court, a majority of the judges of the Municipal Court of the San Diego Judicial District may appoint as many competent judicial secretaries as the business of the court requires, not to exceed five, who shall hold office during the pleasure of the judges of the court. One secretary shall be appointed by the majority of the judges of the court as the chief judicial secretary, who, while serving in that capacity, shall receive a biweekly salary at the rate specified in the salary schedule provided in Section 74343.1. In no event shall the salary of the chief judicial secretary be less than 25 percent higher than that specified for judicial secretary. Appointment to such position shall be at step E.

Each judicial secretary other than the chief judicial secretary shall receive a biweekly salary at a rate equal to that specified for administrative secretary IV in the classified service of the County of San Diego, commencing at step D at initial employment and advancing to step E at the end of one year of continuous service.

Whenever the salary of administrative secretary IV of the classified

service of the County of San Diego is adjusted by the Board of Supervisors of San Diego County, the salaries of the chief judicial secretary and judicial secretaries shall be adjusted a commensurate percentage in the salary schedule on the same date, such adjustments to take effect on the effective date of any amendments to this article enacted at the 1980-81 Regular Session of the Legislature. Any salary adjustments made as a result of this section shall be effective only until January 1, 1984.

Notwithstanding the provisions of Section 74350, the chief judicial secretary and judicial secretaries shall receive and be entitled to the same vacations, sick leave, leaves of absence and similar privileges and benefits as are now or may hereafter be provided for administrative secretary IV in the classified service of the County of San Diego; provided, however, that the majority of the municipal court judges may adopt rules to provide for vacations, sick leave, leaves of absence and similar privileges and benefits different from those for administrative secretary IV in the classified service of the County of San Diego.

SEC. 11. Section 74364 of the Government Code is amended to read:

74364. The marshal may make the following appointments each of whom shall receive the biweekly compensation as specified in the salary schedule incorporated by Section 74343.1:

(a) One assistant marshal. In no event shall the compensation of the assistant marshal be less than 20 percent higher than that specified for the position of captain.

(b) Four captains.

(c) Three lieutenants. A lieutenant, first employed prior to April 1, 1979, shall be compensated at a biweekly rate 2½ percent higher than prescribed in this section when in possession of an advanced peace officer standards and training certificate.

(d) Fourteen sergeants. A sergeant, first employed prior to April 1, 1979, shall be compensated at a biweekly rate 2½ percent higher than prescribed in this section when in possession of an advanced peace officer standards and training certificate.

(e) One hundred thirty-two deputy marshals. A deputy marshal who was employed as a deputy marshal in the San Diego County municipal courts or an equivalent classification in the San Diego County classified service prior to April 1, 1979, or a deputy marshal that laterally transferred from another California peace officer agency prior to January 1, 1980, shall be compensated at a biweekly rate 5 percent higher than prescribed in this section when in possession of a basic peace officers standards and training certificate; 10 percent higher than prescribed in this section when in possession of an intermediate peace officer standards and training certificate; and 12½ percent higher than prescribed in this section when in possession of an advanced peace officer standards and training certificate. An employee who was employed as a deputy marshal or equivalent county classification on or after April 1, 1979, except those

employees who laterally transferred from another California peace officer agency prior to January 1, 1980, shall be paid twenty dollars (\$20) per pay period when in possession of an intermediate peace officer standards and training certificate and, in addition, ten dollars (\$10) per pay period when in possession of an advanced peace officer standards and training certificate.

Any deputy marshal who may be assigned by the marshal to one of seven positions designated as lead deputy, shall receive, while serving in that capacity, biweekly compensation at a rate 5 percent higher than that received by said deputy.

The marshal may, at his discretion, replace a deputy marshal position by accepting a lateral transfer from another California peace officer agency. Said transferee must be actively employed in a position enumerated in Penal Code Section 830.1 or 830.2 prior to the transfer.

(f) One administrative secretary II. Each vacancy occurring in this position shall cause a corresponding reduction in the number of administrative secretaries II hereby authorized; provided, however, that each of such vacancies shall increase by one a position designated as senior typist.

(g) One chief, administrative services or administrative assistant III.

(h) Twenty-two intermediate typists.

(i) Five senior typists.

(j) Twenty-four deputy marshal-cadets. In no event shall a deputy marshal-cadet's salary be less than 65 percent of the salary of a deputy marshal at the corresponding pay step. At the time an incumbent in the position of deputy marshal-cadet attains the age of 21 he may be appointed by the marshal to a position of deputy marshal, provided such a position is open, without further qualification or examination.

(k) One supervising clerk.

(l) Two junior typists. Each vacancy occurring in this position shall cause a corresponding reduction in the number of junior typists hereby authorized; provided, however, that such vacancy shall increase by one, a position designated as intermediate typist under subdivision (h) of this section.

(m) Five legal procedures clerks III.

(n) Nineteen legal procedures clerks II or I.

(o) Every person specified in subdivision (f), (h), (i), (j), (k), (l), (m), or (n) who works a night shift shall be paid an hourly bonus equivalent to that bonus paid to night shift workers in the classified service of San Diego County who are in the comparable positions specified in Section 74374. Every person specified in subdivision (f), (h), (i), (j), or (l) who is regularly assigned and certified by the marshal as working more than 50 percent of his or her time, or who is assigned more than 40 hours in any one pay period to operate a C.R.T. machine, shall be paid twenty-five cents (\$0.25) per hour in addition to the salary prescribed for his or her class, for all hours worked.

(q) Any person specified in subdivisions (f), (h), and (i), who may be assigned by the marshal to one of the positions designated as executive secretary, administrative-personnel secretary, or bookkeeping machine operator, shall receive, while serving in that capacity, biweekly compensation at a rate 10 percent higher than that specified in such person's designated subdivision.

(r) Two principal clerks.

(s) Two communications dispatchers. At the time the appointment to such positions are made, the marshal may designate two positions authorized in subdivision (h) to be abolished, and such positions shall thereafter cease to exist.

(t) Two administrative assistants II, I or trainee.

SEC. 12. Section 74374 of the Government Code is amended to read:

74374. The hereinafter enumerated classes of positions in the marshal's office of the municipal courts in San Diego County are deemed to be equivalent in job, and salary level, and benefit level to certain classifications in the classified civil service of San Diego County and whenever the salary of a classification in the service of San Diego County is adjusted by the board of supervisors, the salary of the equivalent classification in the marshal's office shall be adjusted in the same amount. 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 the county classifications. In the event a system of merit pay increases is established by the County of San Diego for employees in a particular classification, like merit increases, if justified, may be authorized by the appointing authority for marshal's office employees who are in equivalent classifications. Any salary adjustments made as a result of this section shall be effective only until January 1, 1982.

The equivalent classifications are as follows:

Municipal court marshal classification	County classification
Assistant marshal .....	Deputy sheriff-inspector
Captain.....	Deputy sheriff-captain
Lieutenant.....	Deputy sheriff-lieutenant
Sergeant.....	Deputy sheriff-sergeant
Deputy marshal .....	Deputy sheriff
Senior typist .....	Senior clerk-typist
Intermediate typist .....	Intermediate clerk-typist
Junior typist.....	Junior typist
Cadet .....	Revenue and recovery offi- cer trainee
Supervising clerk.....	Supervising clerk
Administrative assistant III .....	Administrative assistant III
Administrative assistant II.....	Administrative assistant II
Principal clerk .....	Principal clerk
Legal procedures clerk II .....	Legal procedures clerk II

Legal procedures clerk I . . . . .	Legal procedures clerk I
Communications dispatcher . . . . .	Communications dispatcher
Administrative assistant I . . . . .	Administrative assistant I
Administrative trainee . . . . .	Administrative trainee
Administrative secretary II . . . . .	Administrative secretary II
Chief, administrative services . . . . .	Chief, administrative serv- ices
Legal procedures clerk III . . . . .	Legal procedures clerk III

Persons occupying positions in the above specified municipal court marshal classifications shall not be paid less salary than persons occupying positions in equivalent county classifications. In no event shall a deputy marshal receive less salary than that received by a deputy sheriff in the highest classification designated for deputy sheriffs by the County of San Diego. A change in title or designation for the position of top level deputy sheriff shall not affect the parity to this level granted to a deputy marshal.

SEC. 13. Section 74376 of the Government Code is amended to read:

74376. In the event that the number of judges, commissioners, or referees provided for any existing municipal court judicial district in the County of San Diego is increased, or that additional municipal court judicial districts are provided in the County of San Diego, thereby causing an increase in the number of judges, commissioners, or referees, the marshal of the municipal courts at his discretion may appoint one deputy marshal, and one intermediate typist or legal procedures clerk, each of whom shall receive compensation as specified for their respective classifications, for each additional judge, commissioner, or referee appointed or elected.

SEC. 14. Section 74743 of the Government Code is amended to read:

74743. The clerk-administrative officer may appoint with the approval of the judges:

(a) One assistant clerk-administrative officer. In no event shall the compensation of the assistant clerk-administrative officer be more than 20 percent below that specified for the assistant clerk-administrative officer of the San Diego Judicial District.

(b) Five supervising deputy clerks each of whom shall receive a biweekly salary at a rate not less than 10 percent higher than that specified for deputy clerk IV.

(c) Nine deputy clerks IV, each of whom shall receive a biweekly salary equal to that specified for the classification of superior court clerk in the classified service of San Diego County.

(d) Thirty-seven deputy clerks III, II or I, as the case may be. Each of the deputy clerks III shall receive a biweekly salary at a rate not more than 20 percent below that specified for deputy clerk IV. Each of the deputy clerks II shall receive a biweekly salary at a rate not more than 20 percent below that specified for deputy clerk III. Each of the deputy clerks I shall receive a biweekly salary equal to that

specified for the classification of intermediate clerk-typist in the classified service of San Diego County. At the discretion of the clerk-administrative officer, appointments to the deputy clerk I classification may be at any step within the salary range.

(e) Three deputy clerk data entry operators, each of whom shall receive a biweekly salary at a rate equal to that specified for the classification of data entry operator in the classified service of San Diego County.

(f) One deputy clerk stenographer who shall receive a biweekly salary at a rate equal to that specified for administrative secretary IV in the classified service of San Diego County. Notwithstanding the provisions of Section 74343.1, at such time as the court appoints a judicial secretary pursuant to Section 74749, the comparable county classification to deputy clerk stenographer for purposes of salary and rate of salary increase shall become judicial secretary and for purposes of privileges and benefits, administrative secretary III.

(g) One deputy clerk interpreter who shall receive a biweekly salary at a rate equal to that specified for deputy clerk III.

(h) Any person occupying a position specified in subdivision (d) and performing bilingual duties as certified by the clerk-administrative officer shall be paid additional compensation at the biweekly rate determined by the clerk-administrative officer as specified for bilingual ability in the salary ordinance of the County of San Diego.

The value, in dollars, of each monthly salary herein shall be at the rates indicated opposite the respective deputy clerk classifications in the salary schedule incorporated by Section 74343.1. The provisions of subdivisions (a), (b), (c), (d), (e), and (f) of that section apply to the attachés appointed pursuant to this section. In no event shall the salary of the clerk or any deputy clerk who occupied his position on the day prior to the effective date of this section be less than his salary on such day.

SEC. 15. Section 74746 of the Government Code is amended to read:

74746. (a) All persons holding positions on the effective date of any amendments to this article shall continue in their respective positions without further examination or qualification and at the added compensation provided in this article, including increments for continuous prior service in such positions in the court. Any person whose title is changed as a result of any amendments to this article shall receive credit for continued service to which he would be entitled under his previous position and shall receive compensation at the step covering such length of service. Thereafter, any increments earned by additional service in grade shall take effect upon the first day of the pay period following completion of such required service.

(b) In addition to the compensation provided in this article, the classifications of attachés of the municipal court shall receive, and they shall be entitled to the same vacations, sick leave, leaves of

absence, bilingual pay, merit pay increases, retirement benefits and similar privileges and benefits as are now or may hereafter be provided for the employees of the County of San Diego in the comparable classifications specified in Section 74343.1, including the right to participate in a retirement plan, in any group health, accident or life insurance plan adopted by the Board of Supervisors of San Diego County, and in the tuition refund and suggestion awards programs adopted by the board.

For purposes of this subdivision only, the clerk and assistant clerk shall receive the same privileges and benefits as are received by the classification of chief probation officer of the classified service of the County of San Diego.

The term "same privileges and benefits" for purposes of this section shall include, but not be limited to, any benefits which are available to comparable classifications in the classified civil service of San Diego County pursuant to the provisions of any ordinance of the County of San Diego which credit to a member of the San Diego County Employees Retirement System extra days or fractions thereof, of service for retirement purposes for each day of uncompensated sick leave. Changes in privileges and benefits shall be effective on the same date as those for employees of the County of San Diego in comparable classifications. The majority of all the municipal court judges may adopt rules for the conduct of the personnel privileges to be afforded the attachés of the court.

(c) All attachés may be appointed, promoted, removed, suspended, or discharged for cause by the appointing authority subject in such appointment, promotion, removal, suspension, or discharge to civil service provisions applicable to the classified personnel of San Diego County. Whenever a person or attaché is appointed or promoted to a position, such person or attaché shall serve a probationary period of at least six months.

(d) Notwithstanding the provisions of Section 71183, a person appointed by the clerk from an eligible list certified by the Civil Service Commission of the County of San Diego to fill a temporary position established pursuant to Section 72150 and employed in such temporary position immediately prior to the effective date of any amendments to this article, may be appointed by such clerk to a like permanent position in such clerk's office without further examination, qualification or certification on a civil service eligible list, provided, that the number of such positions in the clerk's office has been increased so as to make such temporary position a permanent position.

SEC. 16. Article 35.5 (commencing with Section 74915) is added to Chapter 10 of Title 8 of the Government Code, to read:

#### Article 35.5. Yuba County

74915. This article applies to the municipal court established in a judicial district embracing the County of Yuba. This court shall be

known as the Yuba County Municipal Court.

74915.5. There shall be two judges.

74916. (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) Jurors shall be drawn from the entire county.

74916.5. There shall be one clerk who shall receive the salary specified in the Yuba County Salary Resolution. The clerk may, in accordance with the Yuba County Ordinance Code, appoint the following at the salary specified in the Yuba County Salary Resolution:

(a) Two court clerks II who shall be deputy clerks.

(b) Six court clerks I who shall be deputy clerks.

(c) One court clerk I (Spanish speaking) who shall be a deputy clerk.

74917. The sheriff shall be ex officio marshal and shall act as such without additional compensation. The sheriff's designated deputies shall be ex officio deputy marshals of the court.

74917.5. (a) Whenever a reference is made to the Yuba County salary resolution, that resolution as it was in effect on October 1, 1980, shall apply.

(b) In the event the board of supervisors of the County of Yuba amends the salary resolution or adopts a new resolution which provides a change in compensation, 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.

74918. The officers 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 Yuba under ordinances and resolutions of the board of supervisors.

74918.5. If an increase in the business of the court or any other emergency requires a greater number of attachés or employees for prompt and faithful discharge of the business of the court other than the number expressly provided in this article or requires the performance of duties of positions in a class not expressly provided in this article, with the approval of the presiding judge of the court and the board of supervisors, the clerk may appoint in accordance with the Yuba County Ordinance Code as many additional attachés or employees as are needed. The additional attachés or employees shall be selected and appointed in the same manner as those for whom express provision is made, and they shall receive salary and compensation as prescribed in this article or as prescribed by ordinance or resolution of the board of supervisors for classes not expressly provided in this article.

74919. All matters affecting the employment of such municipal

court officers and attachés which are not specifically determined by this article or other provisions of state law shall be governed and regulated by the then current ordinances and resolutions of the Board of Supervisors of the County of Yuba.

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 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. 18. Section 1.1 of this act shall become operative on January 12, 1981, and is intended to reflect the annexation of the Rancho Cucamonga Division and its judge to the West Valley Division of the San Bernardino County Municipal Court District on that date.

SEC. 19. Section 3.5 of this act shall become operative on July 1, 1981.

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## CHAPTER 1231

An act to amend Sections 69586, 73951, and 74501 of, and to add Section 72602.4 to, and Article 35.5 (commencing with Section 74915) to Chapter 10 of Title 8 of, the Government Code, relating to courts, and making an appropriation therefor.

[Approved by Governor September 27, 1980 Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. Section 69586 of the Government Code is amended to read:

69586. In the County of Los Angeles there shall be 171 judges of the superior court, any one or more of whom may hold court; provided, that at such time as the Los Angeles County Board of Supervisors finds there are sufficient funds for any number of additional judges up to a total number of 35 and adopts a resolution or resolutions to that effect, there shall be 171 judges of the superior court plus the additional judge or judges provided by this section, any one or more of whom may hold court.

SEC. 2. Section 72602.4 is added to the Government Code, to read:

72602.4. In addition to the number of judges prescribed in Section 72602, at such time as the Los Angeles County Board of Supervisors finds there are sufficient funds for any number of additional judges up to a total number of 10 for the Los Angeles Municipal Court District and adopts a resolution or resolutions to

that effect, there shall be those additional judges in the Los Angeles Municipal Court District.

SEC. 3. Section 73951 of the Government Code is amended to read:

73951. There shall be seven judges; provided, that there shall be 10 judges at such time as the San Diego County Board of Supervisors finds there are sufficient funds to provide for all or any such judges and adopts a resolution or resolutions to that effect.

SEC. 4. Article 35.5 (commencing with Section 74915) is added to Chapter 10 of Title 8 of the Government Code, to read:

#### Article 35.5. Yuba County

74915. This article applies to the municipal court established in a judicial district embracing the County of Yuba. This court shall be known as the Yuba County Municipal Court.

74915.5. There shall be two judges.

74916. (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) Jurors shall be drawn from the entire county.

74916.5. There shall be one clerk who shall receive the salary specified in the Yuba County Salary Resolution. The clerk may, in accordance with the Yuba County Ordinance Code, appoint the following at the salary specified in the Yuba County Salary Resolution:

(a) Two court clerks II who shall be deputy clerks.

(b) Six court clerks I who shall be deputy clerks.

(c) One court clerk I (Spanish speaking) who shall be a deputy clerk.

74917. The sheriff shall be ex officio marshal and shall act as such without additional compensation. The sheriff's designated deputies shall be ex officio deputy marshals of the court.

74917.5. (a) Whenever a reference is made to the Yuba County Salary Resolution, that resolution as it was in effect on October 1, 1980, shall apply.

(b) In the event the board of supervisors of the County of Yuba amends the Salary Resolution or adopts a new resolution which provides a change in compensation, 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.

74918. The officers 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 Yuba under ordinances and resolutions of the board of supervisors.

74918.5. If an increase in the business of the court or any other emergency requires a greater number of attachés or employees for prompt and faithful discharge of the business of the court other than the number expressly provided in this article or requires the performance of duties of positions in a class not expressly provided in this article, with the approval of the presiding judge of the court and the board of supervisors, the clerk may appoint in accordance with the Yuba County Ordinance Code as many additional attachés or employees as are needed. The additional attachés or employees shall be selected and appointed in the same manner as those for whom express provision is made, and they shall receive salary and compensation as prescribed in this article or as prescribed by ordinance or resolution of the board of supervisors for classes not expressly provided in this article.

74919. All matters affecting the employment of such municipal court officers and attachés which are not specifically determined by this article or other provisions of state law shall be governed and regulated by the then current ordinances and resolutions of the Board of Supervisors of the County of Yuba.

SEC. 5. Section 74501 of the Government Code is amended to read:

74501. There shall be 19 judges; provided that there shall be 20 judges at such time as the Board of Supervisors of San Francisco finds there are sufficient funds for an additional judge of the municipal court, and adopts a resolution to that effect.

SEC. 6. The sum of eight hundred thirty-seven thousand seventy-five dollars (\$837,075) is hereby appropriated from the General Fund to the Controller without regard to fiscal year for allocation and disbursement, as follows:

(a) To Los Angeles County, in augmentation of Item 21 of the Budget Act of 1980 for the state share of salaries of judges of the superior court as provided by Section 68206 of the Government Code.....	\$237,075
(b) To Los Angeles County, in augmentation of Item 22 of the Budget Act of 1980, for reimbursement of costs incurred pursuant to this act as provided in Section 2231 of the Revenue and Taxation Code	600,000
	\$837,075

SEC. 7. Except as provided in Section 6 of this act, no appropriation is made by this act 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 1232

An act relating to the use of water for migratory waterfowl habitat.

[Approved by Governor September 27, 1980. Filed with Secretary of State September 29, 1980.]

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

SECTION 1. Notwithstanding any other provision of law, water delivered under existing contracts between the United States and the Grassland Water District and between the United States and the State of California for the purpose of providing migratory waterfowl habitat in the Counties of Merced and Fresno shall be allocated, as determined by the Secretary of the Interior, in accordance with the provisions of such existing contracts; however, a shortage of water available arising from a drought shall be allocated by the secretary so as to provide a sufficient amount of water needed to protect the habitat and to sustain the waterfowl in migratory waterfowl areas.



CHAPTER 1233

An act to amend Section 69593 of the Government Code, relating to courts, and making an appropriation therefor.

[Approved by Governor September 27, 1980 Filed with Secretary of State September 29, 1980 ]

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

SECTION 1. Section 69593 of the Government Code is amended to read:

69593. In the County of Sacramento there shall be 26 judges of the superior court; provided, that if a vacancy occurs in the office of juvenile court referee appointed and employed pursuant to Section 69893.5, there shall be 27 judges of the superior court.

SEC. 2. The sum of three hundred fifty-eight thousand five hundred thirty-eight dollars (\$358,538) is hereby appropriated from the General Fund to the Controller for allocation and disbursement, as follows:

- (a) To Sacramento County, in augmentation of Item 21 of the Budget Act of 1980 for the state share of salaries of judges of the superior court as provided by Section 68206 of the Government Code..... \$71,123
- (b) To local agencies, in augmentation of Item 22 of the Budget Act of 1980, for reimbursement of costs incurred pursuant to this act as provided in Section 2231 of the Revenue and Taxation Code 180,000
- (c) To Sacramento County, without regard to fiscal year, for the

state share of salaries of judges of the superior court as provided in Section 68200 of the Government Code upon the occurrence of a vacancy in the office of juvenile court referee and the establishment of an additional judgeship as provided in Section 69593 of the Government Code as amended by Section 1 of this act.....	47,415
(d) To Sacramento County, without regard to fiscal year, for reimbursement of costs incurred pursuant to this act as provided in Section 2231 of the Revenue and Taxation Code upon the occurrence of a vacancy in the office of juvenile court referee and the establishment of an additional judgeship as provided in Section 69593 of the Government Code as amended by Section 1 of this act.....	60,000
	358,538

SEC. 3. Except as provided in Section 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 1234

An act to amend Section 831.5 of the Government Code, and to amend Sections 5019.68, 5093.34, and 31400.3 of, and to add Section 5002.45 to, the Public Resources Code, relating to public resources, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1980 Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. Section 831.5 of the Government Code, as added by Senate Bill 1323 of the 1979–80 Regular Session, is amended to read:

831.5. (a) The Legislature declares that innovative public access programs, such as agreements with public land trusts, can provide effective and responsible alternatives to costly public acquisition programs. The Legislature therefore declares that it is beneficial to the people of this state to encourage private nonprofit entities such as public land trusts to carry out programs that increase opportunities for the public to enjoy access to and use of natural resources if such programs are consistent (1) with public safety,

(2) with the protection of such resources, and (3) with public and private rights.

(b) For the purposes of Sections 831.2 and 831.4, "public entity" includes a public land trust which meets all of the following:

(1) Is a nonprofit organization existing under the provisions of Section 501(c) of the United States Internal Revenue Code.

(2) Has specifically set forth in its articles of incorporation, as among its principal charitable purposes, the conservation of land for public access, agricultural, scientific, historical, educational, recreational, scenic, or open space opportunities.

(3) Has entered into an agreement with the State Coastal Conservancy for lands located within the coastal zone, as defined in Section 31006 of the Public Resources Code, or with the State Public Works Board or its designee for lands not located within the coastal zone, on such terms and conditions as are mutually agreeable, requiring the public land trust to provide nondiscriminatory public access consistent with the protection and conservation of either coastal or other natural resources, or both. The conservancy or the board, as appropriate, shall periodically review such agreement and determine whether the public land trust is in compliance with such terms and conditions. In the event the conservancy or the board determines that the public land trust is not in substantial compliance with such agreement, the conservancy or the board shall cancel the agreement, and the provisions of Sections 831.2 and 831.4 shall no longer apply with regard to that public land trust.

(c) For the purposes of Sections 831.2 and 831.4, "public employee" includes an officer, authorized agent, or employee of any public land trust which is a public entity.

SEC. 2. Section 5002.45 is added to the Public Resources Code, to read:

5002.45. (a) Notwithstanding any other provision of this article, upon completion of the land transfer authorized in Section 6 of the act which adds this section to this code, the department shall prepare a general plan or revise any existing general plan, as the case may be, for the Sinkyone Wilderness State Park.

(b) The general plan shall be as provided in Section 5002.2 and shall also include all of the following:

(1) Provision for a system of recreational trails connected one to another and to other recreational trails in the region.

(2) Provision for a system of nonmotorized transportation, at least for those unable to hike long distances because of age or disability. The department may contract for a privately owned and operated system of horse-drawn carriages to be operated at no cost to the state in order to provide this nonmotorized transportation.

(3) Provision for parking of motor vehicles at Usal and Low Gap or elsewhere at the perimeter of or near the Sinkyone Wilderness State Park. This may include patrolled parking areas on the perimeter of or near the park or parking lots in nearby communities with shuttle buses to the wilderness area, or both; in any case, the

department may charge fees not to exceed its actual costs.

(4) Provision for sportfishing. In addition, notwithstanding any other provision of law, the commission shall consider and may authorize as a part of the plan continuation of and regulation of hunting on the limited basis traditional to the area, to the extent it does not endanger human health or safety.

(5) Provision for the continuation and renewal of road easements which existed on January 1, 1980, across the park, to the extent that the roads are necessary to provide access to neighboring property.

(6) Provision for the maintenance and use of the existing structure known as Needle Rock House as a visitor-serving or interpretive facility or another use compatible with the preservation of the wilderness environment.

(7) Provision for any restrictions on the use of existing county roads within the park, which restrictions may be necessary to protect human health or safety, natural resources, or wilderness values of the park; and provision for posting of signs on such roads to notify persons of road conditions.

(c) The department, in preparing or revising the general plan, shall hold at least one public hearing in each of Mendocino and Humboldt Counties.

(d) The State Park and Recreation Commission shall conduct at least one public hearing at a location within a 100-mile radius of the park to consider approval of the department's general plan. Notice of the hearing, the availability of copies of the department's general plan, and the conduct of the hearing shall be in accordance with Section 5002.3.

(e) The State Park and Recreation Commission shall evaluate the compatibility of continued use of existing roads with the proposed uses of the park in the general plan adopted by the commission pursuant to this section. However, no county road shall be closed except with the concurrence of the board of supervisors of the county in which it is located.

SEC. 3. Section 5019.68 of the Public Resources Code is amended to read:

5019.68. State wildernesses, in contrast with those areas where man and his own works dominate the landscape, are hereby recognized as areas where the earth and its community of life are untrammelled by man and where man himself is a visitor who does not remain. A state wilderness is further defined to mean an area of relatively undeveloped state-owned or leased 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, or structures which existed at the time of classification of the area as a state wilderness and which the State Park and Recreation Commission has determined may be maintained and used in a manner compatible with the preservation of the wilderness environment, or primitive latrines, which is

protected and managed so as to preserve its natural conditions, and which:

(a) Appears generally to have been affected primarily by the forces of nature, with the imprint of man's work substantially unnoticeable.

(b) Has outstanding opportunities for solitude or a primitive and unconfined type of recreation.

(c) Consists of 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.

(d) May also contain ecological, geological, or other features of scientific, educational, scenic, or historical value.

State wildernesses may be established within the boundaries of other state park system units.

SEC. 4. Section 5093.34 of the Public Resources Code is amended to read:

5093.34. (a) The following areas are hereby designated as components of the system:

(1) Santa Rosa Mountains State Wilderness, consisting of that portion of Anza-Borrego Desert State Park in San Diego County within the area encompassed by Townships 9 and 10 South and Ranges 4, 5, 6, 7, and 8 East, San Bernardino Base and Meridian, except that the State Park and Recreation Commission shall establish the precise boundary.

(2) Mount San Jacinto State Wilderness in Mount San Jacinto State Park in Riverside County consisting of approximately 9,800 acres and including all of Sections 15, 16, 17, 18, 19, 20, 21, 22, 25, 26, 27, 28, 29, 30, and 31, Township 4 South, Range 3 East, and all of Section 6, Township 5 South, Range 3 East, except the SW  $\frac{1}{4}$  NW  $\frac{1}{4}$ , NW  $\frac{1}{4}$  SW  $\frac{1}{4}$ , NE  $\frac{1}{4}$  SW  $\frac{1}{4}$ , SW  $\frac{1}{4}$  SW  $\frac{1}{4}$ , and SE  $\frac{1}{4}$  SE  $\frac{1}{4}$ , San Bernardino Base and Meridian.

(3) The land in the Sinkyone Wilderness State Park after the exchanges of land provided for in Section 6 of the act amending this section at the 1979-80 Regular Session of the Legislature, effective upon approval of a general plan for the area by the State Park and Recreation Commission, as required by Section 5002.45.

(b) The following state school lands, currently under the jurisdiction of the State Lands Commission, shall become components of the system on January 1, 1977, unless exchanged with the federal government for other lands pursuant to existing law prior to that date:

(1) Approximately 640 acres in Monterey County within the Ventana Wilderness, consisting of Section 16, Township 19 South, Range 2 East, Mount Diablo Base and Meridian.

(2) Approximately 40 acres in Monterey County within the Ventana Wilderness, consisting of the NE  $\frac{1}{4}$  NE  $\frac{1}{4}$  of Section 36, Township 19 South, Range 3 East, Mount Diablo Base and Meridian.

(3) Approximately 80 acres in Monterey County within the

Ventana Wilderness, consisting of the SE  $\frac{1}{4}$  NW  $\frac{1}{4}$  and the SW  $\frac{1}{4}$  NE  $\frac{1}{4}$  of Section 36, Township 19 South, Range 2 East, Mount Diablo Base and Meridian.

(4) Approximately 40 acres in Santa Barbara County within the San Rafael Wilderness, consisting of the SE  $\frac{1}{4}$  NW  $\frac{1}{4}$  of Section 16, Township 7 North, Range 27 West, San Bernardino Base and Meridian.

(5) Approximately 80 acres in Siskiyou County within the Marble Mountain Wilderness, consisting of the E  $\frac{1}{2}$  and the NW  $\frac{1}{4}$  of Section 16, Township 41 North, Range 12 West, Mount Diablo Base and Meridian.

(6) Approximately 640 acres in Tehama County within the Yolla Bolla Middle Eel Wilderness, consisting of Section 36, Township 27 North, Range 10 West, Mount Diablo Base and Meridian.

Nothing herein shall preclude the State Lands Commission from effecting exchanges of any such land described in subdivision (b) with the federal government on or after January 1, 1977, for the purpose of including the exchanged land in the national wilderness preservation system. Upon completion of any such exchange, any such land described in subdivision (b) shall no longer be part of the system.

SEC. 5. Section 31400.3 of the Public Resources Code, as added by Senate Bill 1323 of the 1979-80 Regular Session, is amended to read:

31400.3. The conservancy may provide such assistance as is required to aid public agencies and nonprofit organizations in establishing a system of public coastal accessways, and related functions necessary to meet the objectives of this division.

SEC. 6. (a) The Director of General Services, with the approval of the State Public Works Board, the Director of Parks and Recreation, and the State Park and Recreation Commission, is hereby authorized to exchange, for current market value and upon such terms and conditions and with such reservations and exceptions as in his opinion may be for the best interest of the state, all or any part of the real property described in subdivision (b) which is under the jurisdiction of the Department of Parks and Recreation for a transfer to the state of all right, title, and interest in and to real property in private ownership described in subdivision (c), such property to be transferred to the state as an addition to Sinkyone Wilderness State Park. The State Park and Recreation Commission shall not approve the exchange unless and until, subsequent to the hearing conducted pursuant to subdivision (f), it holds a public hearing on such approval at a location within a 100-mile radius of the Sinkyone Wilderness State Park. Notice of the hearing and conduct of the hearing shall be in accordance with Section 5002.3.

(b) (1) That portion of the Reynolds Wayside Campground lying west of the center of the South Fork Eel River, lying in Section 7, T24N, R17W, M.D.B. & M.

(2) That portion of the south half, Section 25, T24N, R19W, M.D.B.

& M., a part of Sinkyone Wilderness State Park, lying east of the dividing ridge between the slope above the Pacific Ocean and the North Fork of Jackass Creek.

(c) (1) Those portions of the Northeast Quarter, Section 25, and the south half of the Southeast Quarter, Section 24, T24N, R19W, M.D.B. & M., lying south and west of the dividing ridges between the slopes above the Pacific Ocean and the North Fork of Jackass Creek.

(2) Fee title or lesser interest in a coastal recreational trail from Usal to Sinkyone Wilderness State Park, including a staging area at the trailhead and a camping area at Jackass Creek (also known as Wolf Creek), which may include the stand of old-growth timber on the west side of the North Fork of Jackass Creek approximately one-quarter mile north of the junction of the north and south forks of Jackass Creek, and any other camping areas which may be necessary or desirable.

(d) The Department of Parks and Recreation and any private landowner participating in an exchange of property under this section shall share, on a 50-50 basis, the costs of obtaining appraisals, land surveys, and other expenses necessary for the exchange. Any roads which define the boundaries of property exchanged shall be for the mutual use of the state and the private landowner.

(e) The exchange of property provided for in this section shall not occur unless the appraised value of real property received by the state is equal to or greater than the appraised value of the real property it transfers to private ownership; provided that, if the appraised value of the real property transferred to private ownership is greater than the appraised value of real property received by the state, the private landowner may pay the state the difference in appraised value and the money shall be deposited in the State Parks and Recreation Fund.

(f) After appraisals have been made of the property which is the subject of the proposed exchange and the appraisals have been made available to the owners of the property, the Department of Parks and Recreation shall hold a public hearing to consider any and all aspects of the proposed exchange. The hearing shall be at a location within a 100-mile radius of the Sinkyone Wilderness State Park and notice of and the conduct of the hearing shall be in accordance with Section 5002.3 of the Public Resources Code.

(g) The Legislature hereby finds and declares all of the following:

(1) That the property which would be received by the state in the exchange authorized by this section would be of a natural resource or recreational benefit to the state which would be equal or greater than the present benefit to the state of the lands which would be transferred to private ownership.

(2) That the exchange of property under this section serves the public interest (A) by expanding Sinkyone Wilderness State Park to protect the wilderness environment, including virgin timber, riparian habitat, fish and wildlife, recreational opportunities, and aesthetic values, (B) by encouraging prudent and responsible

management of private forest lands to help meet the public's need for timber and other forest products, and (C) by providing for rational and natural boundaries between public wilderness and park lands and private forest lands.

(3) It is the intent of the Legislature that the Department of Parks and Recreation, the Department of General Services, and the State Public Works Board expeditiously accomplish the property exchange authorized by this section.

SEC. 7. The sum of five million dollars (\$5,000,000) is hereby transferred from the State Parks and Recreation Fund to the State Coastal Conservancy Fund if Assembly Bill No. 2973 of the 1979-80 Regular Session is chaptered before this bill and transfers moneys to the State Parks and Recreation Fund, and if not, the transfer of moneys to the State Coastal Conservancy Fund shall be made as provided in Section 8 of this act.

This section shall be operative only if Proposition 1 on the November 4, 1980, general election ballot is not approved by the voters.

SEC. 8. If Assembly Bill No. 2973 of the 1979-80 Regular Session is not chaptered before this bill, the transfer of funds to the State Coastal Conservancy Fund in Section 7 of this act 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.

If Assembly Bill No. 2973 of the 1979-80 Regular Session is chaptered after this bill and transfers moneys to the State Parks and Recreation Fund, upon the effective date of Assembly Bill No. 2973, an amount equal to the amounts allocated in the interim between the effective date of this act and the effective date of Assembly Bill No. 2973 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 State Parks and Recreation 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 any appropriations which, but for this section, would have been made from the State Parks and Recreation Fund shall be made from that fund.

This section shall be operative only if Proposition 1 on the November 4, 1980, general election ballot is not approved by the voters.

SEC. 9. The sum of five million dollars (\$5,000,000) is hereby appropriated from the State Coastal Conservancy Fund to the State Coastal Conservancy for expenditure during the 1980-81 fiscal year in accordance with the following schedule:

(a) Two million five hundred thousand dollars (\$2,500,000) to be available for the acquisition of interests in real property, for grants to public and private agencies, and for other expenditure for the purpose of preserving, protecting, restoring, and enhancing wetlands in accordance with Division 21 (commencing with Section 31000) of the Public Resources Code.

(b) Two million five hundred thousand dollars (\$2,500,000) for grants to public and private agencies for acquisition, development, rehabilitation, restoration, and the cost of operating and maintaining real property providing public access to or along the coast, including the shoreline of San Francisco Bay and Suisun Marsh, in accordance with Division 21 (commencing with Section 31000) of the Public Resources Code; provided, that none of the funds appropriated in this subdivision may be encumbered unless and until the State Coastal Conservancy enters into an agreement with the public agency for the operation and maintenance of the accessway by the public agency beyond the first year at no cost to the state. However, the conservancy may award operation and maintenance funds in the first year to a public agency for any new accessway.

SEC. 10. None of the state lands authorized to be exchanged by this act may be exchanged for 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 the exchange. All material relating to implied dedication and public prescriptive rights or claims shall be retained in the files of the agency conducting the investigations and appraisals and shall be available for postaudit on a selective basis by the Attorney General.

SEC. 11. Sections 1 and 5 of this act shall become operative only if Senate Bill No. 1323 of the 1979-80 Regular Session of the Legislature is chaptered and adds Section 831.5 to the Government Code and Section 31400.3 to the Public Resources Code, in which case Sections 1 and 5 shall become operative on January 1, 1981.

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 to enable the Department of Parks and Recreation to manage the state park system more efficiently, to preserve and restore rapidly diminishing wetlands which are in danger of being lost or destroyed forever and to improve coastal access to the public, it is necessary that this act become effective immediately.

## CHAPTER 1235

An act to amend Section 1373 of the Health and Safety Code, relating to health care service plans.

[Approved by Governor September 28, 1980. Filed with Secretary of State September 29, 1980 ]

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

SECTION 1. Section 1373 of the Health and Safety Code, as amended by Chapter 11 of the Statutes of 1980, 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, 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 a member to select and obtain mental health or psychological 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. All health care service plans and individual practice associations which offer mental health benefits shall make reasonable efforts to make

available to their members the services of licensed psychologists.

As used in this subdivision, "individual practice association" means an entity as defined in subsection (5) of Section 1307 of the federal Public Health Service Act (subs. (5)., Sec. 300e-1, 42 USC).

(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 1373 of the Health and Safety Code, as amended by Chapter 11 of the Statutes of 1980, 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. 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. All health care service plans and individual practice associations which offer mental health benefits shall make reasonable efforts to make available to their members the services of licensed psychologists.

As used in this subdivision, "individual practice association" means an entity as defined in subsection (5) of Section 1307 of the federal Public Health Service Act (subs. (5), Sec. 300e-1, 42 USC).

For the purposes of this section, "marriage, family and child counselor" means 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.

(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. 3. It is the intent of the Legislature, if this bill and Assembly Bill 2211 are both chaptered and become effective January 1, 1981, both bills amend Section 1373 of the Health and Safety Code, and this bill is chaptered after Assembly Bill 2211, that the amendments to Section 1373 proposed by both bills be given effect and incorporated in Section 1373 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 2211 are both chaptered and become effective January 1, 1981, both amend Section 1373, and this bill is chaptered after Assembly Bill 2211, in which case Section 1 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 1236

An act to amend Sections 12905 and 12958 of the Insurance Code, relating to insurance.

[Approved by Governor September 28, 1980. Filed with Secretary of State September 29, 1980.]

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

SECTION 1. Section 12905 of the Insurance Code is amended to read:

12905. The commissioner shall keep his office in the cities of San Francisco, Sacramento, Los Angeles, and San Diego.

SEC. 2. Section 12958 of the Insurance Code is amended to read:

12958. (a) There is in the office of the commissioner the local government information and statistical analysis section which shall collect relevant data received from insurers pursuant to subdivision (b) in order that public entities will be able to assess past insurance programs and to consider alternatives to full insurance coverage.

(b) Each insurer transacting insurance, as defined in Sections 108 and 116, covering liability for any public entity, as defined in Section 811.2 of the Government Code, where the public entity is the named insured, shall report the following statistics to the commissioner by type of claim, on a date not later than July 1 of each calendar year:

(1) The total number of insureds written during the immediately preceding calendar year.

(2) The total amount of premiums received from insureds, both written and earned (as reported in the annual statement), during the immediately preceding calendar year.

(3) The number of claims reported to the insurer for the first time separately by the year the claim occurred, and, the number of claims reported closed during a previous calendar year which were reopened separately by the year the claim occurred.

(4) The total number of claims outstanding, together with the monetary amount reserved for loss and allocated loss expense, in the annual statement as of December 31 of the calendar year next preceding, separately stated by the year the claim occurred.

(5) (A) The number of claims closed with payment to the claimant during the calendar year next preceding, to be reported by the year the claim occurred, (B) the total monetary amount paid thereon, reported by the year the claim occurred, and (C) the total allocated loss expense paid thereon, reported by the year the claim occurred.

(6) The monetary amount paid on claims during the calendar year next preceding, to be reported separately by the year the claim occurred, with allocated loss expense paid, to be reported separately by the year the claim occurred.

(7) The number of claims closed without payment to the claimant

during the calendar year next preceding, by the year the claim occurred, and the allocated loss expense paid thereon, separately by the year the claim occurred.

(8) The monetary amount reserved in the annual statement for the calendar year next preceding on claims incurred but not reported to the insurer.

(9) The number of lawsuits filed against the insurers insureds during the calendar year next preceding, to be separately reported by the year the claim occurred.

(10) A distribution by size of payment for those claims closed during the calendar year next preceding, showing the number of claims and total amount paid for each monetary category, as determined by the commissioner.

As used in this section, the type of claims to be reported shall include, but not be limited to, workers' compensation, liability, personal injury other than automobile, property damage other than automobile liability, liability based upon the dangerous condition of public property, and other general liability claims.

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## CHAPTER 1237

An act to amend Sections 4512, 4525, and 4540 of, and to repeal and add Section 4521 of, the Welfare and Institutions Code, relating to developmentally disabled persons, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1980. Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. Section 4512 of the Welfare and Institutions Code is amended to read:

4512. As used in this part:

(a) "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. 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.

(b) "Services for persons with developmental disabilities" means specialized services or special adaptations of generic services directed toward the alleviation of a developmental disability or

toward the social, personal, physical, or economic habilitation or rehabilitation of an individual with such a disability, and includes, but is not limited to, diagnosis, evaluation, treatment, personal care, day care, domiciliary care, special living arrangements, physical, occupational, and speech therapy, training, education, sheltered employment, mental health services, recreation, counseling of the individual with such disability and of his family, protective and other social and sociolegal services, information and referral services, follow-along services, and transportation services necessary to assure delivery of services to persons with developmental disabilities.

(c) Notwithstanding subdivision (a) and (b), for any organization or agency receiving federal financial participation under the federal Developmental Disabilities Assistance and Bill of Rights Act, as amended "developmental disability" and "services for persons with developmental disabilities" means such terms as defined in such federal act to the extent required by federal law.

SEC. 2. Section 4521 of the Welfare and Institutions Code is repealed.

SEC. 3. Section 4521 is added to the Welfare and Institutions Code, to read:

4521. All references to "state council" in this part shall be a reference to the State Council on Developmental Disabilities.

There shall be 17 voting members appointed to the state council by the Governor as follows:

(a) Nine members of the council shall be persons with a developmental disability or parents, siblings, guardians or conservators of such persons who are not employees of a state, local, or private agency or facility which receives funds from the rehabilitation, comprehensive services, and developmental disabilities legislation, as amended, or provides services to the developmentally disabled. Three of these members shall be persons with a developmental disability, and three shall be parents, siblings, guardians, or conservators of persons with mentally impairing developmental disabilities.

(b) Eight members of the council shall include:

(1) The Secretary of the Health and Welfare Agency.

(2) The Director of Developmental Services.

(3) The Director of Rehabilitation.

(4) The Superintendent of Public Instruction.

(5) The chairperson of the Organization of Area Boards.

(6) A representative from a nongovernmental agency or group concerned with the provision of services to persons with developmental disabilities.

(7) A member of the County Supervisors Association of California. The Governor shall request and consider recommendations from such association prior to making such appointment.

(8) A representative of a higher education training facility providing training in the field of developmental services. Such individual shall have expertise in the field of developmental

disabilities.

(c) Prior to appointing the nine members, pursuant to subdivision (a), the Governor shall receive two nominations from the Senate Rules Committee and two nominations from the Speaker of the Assembly. These nominations shall be as follows:

(1) One nomination each shall be a person with a developmental disability.

(2) One nomination each shall be a parent, sibling, guardian, or conservator of a person with a developmental disability.

(3) Of the remaining five members, appointed by the Governor, at least one shall be a person with a developmental disability; at least one shall be a person who is a parent, sibling, guardian, or conservator of a person with a developmental disability; at least one shall be a person who is an immediate relative, guardian, or conservator of a resident of a state hospital; and at least one shall be a person who is an immediate relative, guardian, or conservator of a developmentally disabled person living in the community and one person may be selected from any of the categories specified in this paragraph.

(d) Prior to appointing the nine members, pursuant to subdivision (a), the Governor shall request and consider recommendations from organizations representing or providing services, or both, to persons who are developmentally disabled and shall take into account socioeconomic, ethnic, and geographic considerations of the state.

(e) The term of each member shall be for three years; provided, however, of the members first appointed by the Governor, three shall hold office for three years, three shall hold office for two years, and three shall hold office for one year. In no event shall any member serve for more than a total of six years of service. Service by any individual on any state council on developmental disabilities existing on and after March 4, 1972, including membership on the State Developmental Disabilities Planning and Advisory Council under former Section 38200 of the Health and Safety Code (Ch. 908, Stats. 1971), shall be included in determining the total length of service.

(f) Nothing in this chapter shall prevent the reappointment or replacement of any individual presently serving on the existing state council if such reappointment is in conformity with all of the criteria established in this chapter.

(g) The new council, conforming to these criteria, shall be constituted no later than October 1, 1980.

SEC. 4. Section 4525 of the Welfare and Institutions Code is amended to read:

4525. In order to prevent any potential conflicts of interest, members of the state council shall not be employed as providers of services to persons with a developmental disability, or be members of the governing board of any entity providing such service, when such service is funded in whole or in part with state funds. For purposes of this section "employed as providers of services to persons with a developmental disability" shall not be deemed to include a

parent, relative, guardian or conservator, who receives public funds expressly for the purpose of providing direct services to his or her child, relative, ward or conservatee, respectively, who is a person with a developmental disability.

This section shall not apply to the appointments made pursuant to paragraphs (1), (2), (3), (4), (5), and (7) of subdivision (b) of Section 4521.

SEC. 5. Section 4540 of the Welfare and Institutions Code is amended to read:

4540. In order to comply with the intent and requirements of this division and the rehabilitation, comprehensive services and developmental disabilities legislation, as amended, the state council, in addition to any other responsibilities established under this division and to the extent that resources are available, shall:

(a) Be the "state planning council" responsible for developing the "California Developmental Disabilities State Plan," in accordance with requirements issued by the Secretary of Health and Human Services, monitoring and evaluating the implementation of such plan, reviewing and commenting on other plans and programs in the state affecting persons with developmental disabilities, and submitting such reports as the Secretary of Health and Human Services may reasonably request.

(b) Be the official agency responsible for planning the provision of the federal funds allotted to the state under the provisions of the federal Developmental Disabilities Act, as amended, which shall apportion these funds among agencies and area developmental disabilities boards in compliance with Sections 4550, 4611, and 4677.

(c) Evaluate and issue public reports on the programs identified in the state plan.

(d) Review and comment on pertinent portions of the proposed plans and budgets of all state agencies serving persons with developmental disabilities, including the State Departments of Education, Rehabilitation, Developmental Services, Transportation, Social Services, Employment Development, Youth Authority, Corrections, and Parks and Recreation. Such review may include public hearings prior to the submission of the Governor's Budget to the Legislature, with advice directed to the Governor, and after introduction of the Governor's Budget, with advice directed to the Legislature.

(e) Prepare an annual written report of its activities, its recommendations, and an evaluation of the efficiency of the administration of the provisions of this division of the Welfare and Institutions Code to the Governor and the Legislature.

(f) Review and publicly comment on significant regulations proposed to be promulgated by any state agency in the implementation of the provisions of this division.

(g) Monitor the execution of this division and report directly to the Governor and the Legislature any delay in the rapid execution of this division.

(h) Be responsible for monitoring and evaluating the effectiveness of appeals procedures established in this division.

(i) Provide testimony to legislative committees reviewing fiscal or policy matters pertaining to persons with developmental disabilities.

(j) Conduct, or cause to be conducted, investigations or public hearings to resolve disagreements between state agencies, or between state and regional or local agencies, or between persons with developmental disabilities and agencies receiving state funds. Such investigations or public hearings shall be conducted at the discretion of the state council only after all other appropriate administrative procedures for appeal, as established in state and federal law, have been fully utilized.

Except as otherwise provided in this division, the state council shall not engage in the administration of the day-to-day operation of service programs identified in the state plan, nor in the approval of individual grants, nor in the financial management and accounting of funds. These activities shall be performed by appropriate agencies designated in the state plan.

SEC. 6. The Secretary of the Health and Welfare Agency, in accordance with criteria approved by the Director of Finance, shall contract out a study of the potential impact if the application of the definition of developmental disabilities as contained in this section were applied to the existing state service system, including, but not limited to, the State Departments of Developmental Services, Health Services, Mental Health, and Social Services and the Department of Rehabilitation. The Secretary of the Health and Welfare Agency shall ensure that all appropriate state agencies under his or her jurisdiction cooperate with the contractor conducting the study.

The term "developmental disability," for the purpose of this section, means a severe, chronic disability of a person which:

- (a) Is attributable to a mental or physical impairment or combination of mental and physical impairments;
- (b) Is manifested before the person attains age 22;
- (c) Is likely to continue indefinitely;
- (d) Results in substantial functional limitations in three or more of the following areas of major life activity: (1) self-care, (2) receptive and expressive language, (3) learning, (4) mobility, (5) self-direction, (6) capacity for independent living, and (7) economic self-sufficiency; and
- (e) Reflects the person's need for a combination and sequence of special, interdisciplinary, or generic care, treatment, or other services which are of lifelong or extended duration and are individually planned and coordinated.

The study shall address but not be limited to the following issues:

- (a) Identification of who would be covered by the foregoing definition.
- (b) Identification of services and programs currently meeting the needs of those persons, and relevant information about the funding

thereof.

(c) Identification of unmet service needs of these individuals and the appropriate agencies to meet those needs.

(d) Estimation of costs to meet these needs.

(e) Recommendations for system modification to provide the needed services.

The Secretary of the Health and Welfare Agency shall submit a report to the Legislature on such study and its recommendations not later than two years from the operative date of this section.

This section shall remain in effect only until two years from the effective date of this section, and as of that date is repealed, unless a later enacted statute, which is chaptered before such date, deletes or extends it.

SEC. 7. 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 this act which can be given effect without the invalid provision or application and to this end the provisions of this act are severable.

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 to comply with the provisions of the Developmental Disabilities Assistance and Bill of Rights Act, it is necessary that this bill take effect immediately.

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## CHAPTER 1238

An act to amend Sections 11346.1, 11346.7, 11347.1, 11349.5, 11349.6, and 11349.7 of, and to repeal and add Section 11346.51 of the Government Code, and to amend Sections 17958.2, 17958.5, 17958.7, and 19826 of the Health and Safety Code, relating to governmental regulation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1980. Filed with  
Secretary of State September 29, 1980 ]

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

SECTION 1. Section 11346.1 of the Government Code is amended to read:

11346.1. (a) The provisions of this article shall not apply to any regulation not required to be filed with the Secretary of State under this chapter, and only this section, Section 11346.2 and Section 11349.6 shall apply to any regulation prescribing an agency's organization or procedure or to an emergency regulation adopted pursuant to subdivision (b), or to any regulation adopted under

Section 5500.5 of the Financial Code.

(b) Except as provided in subdivision (c), if a state agency makes a finding that the adoption of a regulation or order of repeal is necessary for the immediate preservation of the public peace, health and safety or general welfare, the regulation or order of repeal may be adopted as an emergency regulation or order of repeal.

Any finding of an emergency shall include a written statement which contains the information required by Section 11346.5 and a description of the specific facts showing the need for immediate action.

The statement and the regulation or order of repeal shall be filed immediately with the Rules Committees of both houses of the Legislature and shall be published in the next issue of the notice supplement to the California Administrative Register.

(c) (1) Notwithstanding any other provision of the law, no board or commission shall have the power to adopt an emergency regulation to interpret, implement, or make specific provisions of the law relating to campaign disclosure except by a unanimous vote of all members of such board or commission present at the proceeding at which such regulation is adopted.

(2) Notwithstanding any other provision of law, no emergency regulation which is a building standard, as defined in Section 18909 of the Health and Safety Code, shall be filed, nor shall such building standard be effective, unless such building standards submitted to the State Building Standards Commission, and is approved and filed pursuant to the provisions of Sections 18937 and 18938 of the Health and Safety Code.

(d) The emergency regulation or order of repeal shall become effective upon filing or upon any later date specified by the state agency in a written instrument filed with, or as a part of, the regulation or order of repeal.

(e) No regulation adopted as an emergency regulation shall remain in effect more than 120 days unless the adopting agency has complied with Sections 11346.4 to 11346.8, inclusive, prior to the adoption of the emergency regulation, or has, within the 120-day period, given notice of the adoption of the emergency regulation in a manner substantially similar to that required for the proposed adoption of a regulation and has afforded interested persons the opportunity to present statements, arguments, or contentions in a manner substantially similar to that required by Section 11346.8. The agency shall, prior to the expiration of the 120-day period, transmit to the office for filing with the Secretary of State a certification that either Sections 11346.4 to 11346.8, inclusive, were complied with prior to adoption, or that there was compliance with the provisions of this section within the 120-day period.

(f) In the event an emergency regulation was filed as an amendment to an existing regulation, upon failure of the adopting agency to comply with subdivision (e) as provided above, the regulation as it existed prior to such emergency amendment shall

thereupon become effective and after notice to the adopting agency by the Office of Administrative Law shall be reprinted in the California Administrative Code in the place of such emergency amendment.

(g) In the event a regulation is originally adopted and filed as an emergency and the adopting agency fails to comply with subdivision (e) as provided above, such failure shall constitute a repeal thereof and after notice to the adopting agency by the Office of Administrative Law, shall be deleted.

(h) A regulation adopted as an emergency regulation or, an emergency regulation substantially equivalent thereto, shall not be readopted as an emergency regulation except with the express prior approval of the Director of the Office of Administrative Law.

SEC. 1.5. Section 11346.51 of the Government Code, as added by Chapter 567 of the Statutes of 1979, is repealed.

SEC. 2. Section 11346.51 is added to the Government Code, to read:

11346.51. (a) If a state agency, in adopting, amending, or repealing any administrative regulation, determines that the action would have a significant effect on housing costs, it shall note such fact in the notice of proposed action provided for pursuant to Section 11346.5. In addition, the agency officer designated in subdivision (f) of Section 11346.5, shall make available to the public, upon request, the agency's evaluation, if any, of the effect of the proposed regulatory action on housing costs.

(b) At the time a state agency takes regulatory action which it has determined would significantly increase housing costs, it shall consider revisions to the proposed regulatory action that would have the effect of offsetting the increase in housing costs. If no offsetting action is taken, the agency shall explain in writing the reasons for its decision.

(c) The provisions of this section shall not be construed in any manner which results in the invalidation of a regulation because of the alleged inadequacy or inaccuracy of the housing cost estimates, if there has been substantial compliance with the requirements of this chapter.

SEC. 3. Section 11346.7 of the Government Code is amended to read:

11346.7. Every agency subject to the provisions of this chapter shall prepare, and make available to the public upon request, a general statement of the reasons for proposing the adoption or amendment of a regulation. Such statement shall include, but not be limited to, the following:

(a) The specific purpose of the regulation;

(b) The factual basis for the determination by the agency that the regulation is reasonably necessary to carry out the purpose for which it is proposed;

(c) The substantive facts or other information and the technical, theoretical and empirical studies, if any, on which the agency is

relying in proposing the adoption or amendment of a regulation.

The statement shall be prepared prior to the time that the notice referred to in Section 11346.5 has been published. The statement shall be updated prior to final adoption of the regulation by the agency.

The final statement shall include a summary of the primary considerations raised by persons outside the agency in opposition to the regulation as adopted, together with a brief explanation of the reasons for rejecting those considerations.

The statement shall be transmitted to the office at the same time that the adopted or amended regulation is sent and shall be utilized by the office in its review of the regulation pursuant to Section 11349.1.

A state agency which adopts or amends a regulation mandated by federal law or regulations, the provisions of which are identical to a previously adopted or amended federal regulation, shall be deemed to have complied with the provisions of this section if a statement to the effect that a federally mandated regulation or amendment to a regulation is being proposed, together with a citation to where an explanation of the provisions of the regulation can be found, is included in the notice of proposed adoption or amendment prepared pursuant to Section 11346.5. However, the agency shall comply fully with the provisions of this chapter with respect to any provisions in the regulation which the agency proposes to adopt or amend which are different from the corresponding provisions of the federal regulation.

SEC. 4. Section 11347.1 of the Government Code is amended to read:

11347.1. (a) Upon receipt of a petition requesting the adoption, amendment or repeal of a regulation pursuant to this article, a state agency shall notify the petitioner in writing of the receipt and shall within 30 days deny the petition indicating why the agency has reached such a decision on the merits of the petition in writing or schedule the matter for public hearing in accordance with the notice and hearing requirements of this article.

(b) A state agency may grant or deny such a petition in part, and may grant such other relief or take such other action as it may determine to be warranted by the petition and shall notify the petitioner in writing of such action.

(c) Any interested person may request reconsideration of any part or all of a decision of any agency on any petition submitted. Any such request shall be submitted in accordance with Section 11347 and include the reason or reasons why an agency should reconsider its previous decision no later than 60 days after the date of the decision involved. The agency's reconsideration of any matter relating to a petition shall be subject to the provisions of subdivision (a).

SEC. 5. Section 11349.5 of the Government Code is amended to read:

11349.5. The Governor, within 30 days after the agency and the

office have complied with the requirements of this article, may overrule the decision of the office disapproving a proposed regulation or a decision refusing to allow the readoption of an emergency regulation pursuant to Section 11346.1. In that event, the office shall immediately transmit the regulation to the Secretary of State for filing.

SEC. 6. Section 11349.6 of the Government Code is amended to read:

11349.6. (a) In the event the adopting agency has complied with the provisions of Sections 11346.4 to 11346.8, inclusive, prior to the adoption of the regulation as an emergency, the office shall approve or disapprove the regulation in accordance with the provisions of this article.

(b) Emergency regulations adopted pursuant to subdivision (b) of Section 11346.1 shall be reviewed by the office within 10 calendar days after their filing date. The office shall order the repeal of an emergency regulation if it determines that the regulation is not necessary for the immediate preservation of the public peace, health and safety, or general welfare or if it determines that the regulation fails to meet the standards set forth in Section 11349.1. Within 30 days of the filing of a certificate of compliance, the office shall review the regulation and hearing record and approve or order the repeal of an emergency regulation if it determines that the regulation fails to meet the standards set forth in Section 11349.1.

SEC. 7. Section 11349.7 of the Government Code is amended to read:

11349.7. Every agency subject to the provisions of this chapter shall undertake a review of all regulations administered by it on the effective date of this section in accordance with the following:

(a) On or before December 31, 1980, each agency shall transmit to the Office of Administrative Law a plan for the review of all regulations it is administering. The plan shall be prepared in the manner prescribed by the office and shall include the estimated annual cost of implementing the plan, time schedules for the orderly review of regulations, personnel required to evaluate all regulations, and such other information required by the office.

Time schedules shall further identify separate bodies of regulations within each title of the California Administrative Code which shall be evaluated by January 31 of each year. Review of each title shall be completed no later than the date specified in Section 11349.8.

(b) The Office of Administrative Law shall have final authority to determine the time allowed each agency for review of its regulations.

(c) All regulations shall be reviewed in accordance with the standards set forth in Section 11349.1.

(d) The Office of Administrative Law shall, on or before April 1, 1981, file with the Governor, the Senate Committee on Rules and the Speaker of the Assembly a master plan for regulation review. The master plan shall establish specific dates by which each agency shall have complied with this section, including interim review goals to be

met each year in accordance with subdivision (a) of this section.

The office shall periodically publish in the Notice Register a schedule for the review of existing bodies of regulations by each agency.

(e) The amount required to implement this section shall be included as part of the budget of each agency in the first Governor's Budget sent to the Legislature following the effective date of this section and shall be updated in each succeeding budget as appropriate.

(f) The Office of Administrative Law shall present to the Governor and the Legislature on January 31 of each year a report on the progress of each agency in complying with this section. The office may include in this report recommendations for the repeal or amendment of statutory provisions that affect the operations of regulatory agencies.

(g) Within six months following the date when a body of regulations has been reviewed in accordance with time schedules adopted pursuant to this section, the office on its own motion, or upon the petition of any interested person in keeping with the requirements of Section 11347, may initiate the review of any regulation, group of regulations, or series of regulations. The office may request the agency which chose not to repeal the regulation to forward to it any information on which it relied in reaching its decision. Any such request shall be answered within 14 calendar days of its receipt.

(h) In the event it determines that an existing regulation does not meet the standards set forth in Section 11349.1, the Office of Administrative Law shall order the adopting agency to show cause why the regulation should not be repealed. In issuing such an order, the Office of Administrative Law shall specify in writing the reasons for its determination that the regulation does not meet the standards set forth in Section 11349.1. In the case of a regulation for which no, or inadequate, information relating to its necessity can be furnished by the adopting agency, the order shall specify the information which the Office of Administrative Law requires to make its determination.

(i) No later than 60 days following receipt of an order to show cause why a regulation should not be repealed, the agency shall respond in writing to the Office of Administrative Law. Upon written application by the agency, the office may extend the time for an additional 30 days.

(j) The Office of Administrative Law shall review all information available to it, including the information, if any, transmitted to it in a timely response to the order to show cause why the regulation should not be repealed, and determine whether the regulation meets the standards set forth in Section 11349.1. If the Office of Administrative Law determines that a regulation fails to meet the standards, it shall prepare a statement specifying the reasons for its determination. The statement shall be delivered to the adopting

agency, the Legislature, and the Governor and shall be made available to the public and the courts. Thirty days after delivery of the statement required by this subdivision the Office of Administrative Law shall prepare an order of repeal of the regulation and shall transmit it to the Secretary of State for filing.

(k) The Governor, within 30 days after the agency and the office have complied with the requirements of this article, may overrule the decision of the office ordering the repeal of a regulation. The regulation shall then remain in full force and effect.

(l) In the event that the office orders the repeal of a regulation, it shall give notice of its action in accordance with the provisions of subdivision (e) of Section 11346.4.

SEC. 8. Section 17958.2 of the Health and Safety Code, as added by Chapter 130 of the Statutes of 1980, is amended to read:

17958.2. Notwithstanding Section 17958, regulations of the commission adopted for limited-density owner-built rural dwellings, which are codified in Article 10 (commencing with Section 142) of Subchapter 1 of Chapter 1 of Title 25 of the California Administrative Code, shall not become operative within any city or county unless and until the governing body of the city or county makes an express finding that the application of such regulations within the city or county is reasonably necessary because of local conditions and the city or county files a copy of such finding with the department.

In adopting ordinances or regulations for limited-density owner-built rural dwellings, a city or county may make such changes or modifications in the requirements contained in Article 10 (commencing with Section 142) of Subchapter 1 of Chapter 1 of Title 25 of the California Administrative Code as it determines are reasonably necessary because of local conditions, provided the city or county files a copy of such changes or modifications and the express findings for the changes or modifications with the department. No such change or modification shall become effective or operative for any purpose until the finding and the change or modification has been filed with the department.

SEC. 9. Section 17958.5 of the Health and Safety Code is amended to read:

17958.5. (a) Except as provided in Section 17922.6, in adopting the ordinances or regulations pursuant to Section 17958, a city or county may make such changes or modifications in the requirements contained in the provisions published in the State Building Standards Code and the other regulations adopted pursuant to Section 17922 as it determines, pursuant to the provisions of Section 17958.7, are reasonably necessary because of local climatic, geographical, or topographical conditions.

For purposes of this subdivision, a city and county may make such reasonably necessary modifications to the requirements, adopted pursuant to Section 17922, contained in the provisions of such code and regulations on the basis of local conditions.

(b) On or before October 1, 1981, and each October 1 thereafter,

the department shall transmit a report to the State Building Standards Commission on the modifications and changes made by cities and counties to the building standards published in the State Building Standards Code and the other regulations of the commission. The report shall include a summary by the department of the reasons cited as the necessity for the modifications and changes. The report required pursuant to this section shall apply to modifications and changes made after January 1, 1980.

This subdivision shall remain in effect only until January 1, 1986, and shall have no force or effect on or after such date, unless a later enacted statute, which is chaptered before January 1, 1986, deletes or extends such date.

SEC. 10. Section 17958.7 of the Health and Safety Code is amended to read:

17958.7. (a) Except as provided in Section 17922.6, the governing body of a city or county, before making any modifications or changes pursuant to Section 17958.5, shall make an express finding that such modifications or changes are needed. Such a finding shall be available as a public record. A copy of such findings, together with the modification or change expressly marked and identified to which each such finding refers, shall be filed with the department. No such modification or change shall become effective or operative for any purpose until the finding and the modification or change have been filed with the department. Except as provided in Sections 17958.8 and 17958.9, nothing contained in this part shall be construed to require the governing body of any city or county to alter in any way building regulations enacted on or before November 23, 1970.

(b) If, prior to January 1, 1977, the governing body of a city or county has filed the modification or change but has failed to file the express finding, the governing body shall file the express finding with the department on or before April 1, 1977. If the express finding is not so filed on or before April 1, 1977, the modification or change shall have no force or effect on and after such date.

SEC. 10.5. Section 17958.7 of the Health and Safety Code, as amended by Section 10 of this act, is amended to read:

17958.7. Except as provided in Section 17922.6, the governing body of a city or county, before making any modifications or changes pursuant to Section 17958.5, shall make an express finding that such modifications or changes are needed. Such a finding shall be available as a public record. A copy of such findings, together with the modification or change expressly marked and identified to which each such finding refers, shall be filed with the department. No such modification or change shall become effective or operative for any purpose until the finding and the modification or change have been filed with the department.

SEC. 11. Section 19826 of the Health and Safety Code is amended to read:

19826. No city or county, whether general law or chartered, shall issue a building permit which does not contain all applicable

declarations required by Section 19825 properly executed by the owner, applicant, contractor, or agent of such owner, contractor, or applicant. Such properly executed declarations shall be a condition for issuance of such building permit.

SEC. 11.5. It is the intent of the Legislature, if this bill and Assembly Bill 2707 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 17958.7 of the Health and Safety Code, and this bill is chaptered after Assembly Bill 2707, that Section 17958.7 of the Health and Safety Code, as amended by Section 10 of this act, shall remain operative until the effective date of Assembly Bill 2707, and that on the effective date of Assembly Bill 2707 Section 17958.7 of the Health and Safety Code, as amended by Section 10 of this act, be further amended in the form set forth in Section 10.5 of this act to incorporate the changes in Section 17958.7 proposed by Assembly Bill 2707. Therefore, if this bill and Assembly Bill 2707 are both chaptered and become effective on or before January 1, 1981, and Assembly Bill 2707 is chaptered before this bill and amends Section 17958.7, Section 10.5 of this act shall become operative on the effective date of Assembly Bill 2707.

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 provisions requiring notice of the effect of proposed regulations on housing costs and requiring consideration of action to offset increased housing costs which inadvertently did not become operative may become operative; that local agencies may prepare to meet the reporting requirements contained in this act and for purposes of clarifying certain provisions relative to building permits without delay; and that provisions relative to the Office of Administrative Law may be revised and clarified, as soon as possible, it is necessary that this act take effect immediately.

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## CHAPTER 1239

An act relating to mental health and in connection therewith to amend Item 300 of Chapter 510 of the Statutes of 1980, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1980. Filed with Secretary of State September 29, 1980.]

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

SECTION 1. It is the intent of the Legislature to support, within available resources, local efforts to construct mental health facilities which will provide community-based treatment and reduce the

need for state hospital usage.

SEC. 2. There is hereby appropriated from the Special Account for Capital Outlay in the General Fund to the Director of Mental Health, the sum of three million dollars (\$3,000,000), or so much thereof as is necessary, for expenditure without regard to fiscal years to be allocated to San Joaquin County for the purposes of building a mental health complex in the county. If funds are not available from the Special Account for Capital Outlay, the appropriation made under this section shall be payable from revenues received by the State Lands Commission and allocated under the provisions of Section 6217 of the Public Resources Code and shall be payable immediately prior to allocations made for the 1980-81 fiscal year pursuant to subdivision (e) (the Capital Outlay Fund for Public Higher Education) of Section 6217, and after allocations made for the 1980-81 fiscal year pursuant to subdivisions (a) to (d), inclusive, of Section 6217.

The appropriation made under this section shall be subject to the following conditions:

(a) Funds from the appropriation shall not be used to fund acute care hospital beds. Nothing in this subdivision shall prohibit the use of such funds for a psychiatric health facility as defined in Section 1250.2 of the Health and Safety Code.

(b) Construction of the facility shall be a shared responsibility, with the cost-sharing formula set at 85 percent state, 15 percent county, except that the dollar amount appropriated in this act represents the total state responsibility.

(c) San Joaquin County shall enter into a contract with the state to ensure that there will be a bed-for-bed reduction in state hospital utilization by the county for each bed established in the community with funds appropriated by this act.

SEC. 3. The State Department of Mental Health shall develop appropriate clinical criteria for evaluating any future proposals for state funds for construction of mental health facilities, and the Department of Finance shall develop appropriate fiscal criteria for evaluating any future proposals for state funds for construction of mental health facilities and both shall report these criteria to the Legislature by April 1, 1981.

SEC. 4. Item 300 of Chapter 510 of the Statutes of 1980 is amended to read:

300—For support of the Department of Mental Health	12,341,008
Schedule:	
(a) Personal services .....	20,053,586
(b) Operating expenses and equip- ment .....	10,671,323
(c) Amount payable from other ap- propriations.....	-14,605,587
(d) Reimbursements .....	-1,690,816
(e) Federal funds .....	-1,705,514
(f) Amount payable from Chapter	

1058, Statutes of 1979 .....	-181,984
(g) Amount payable from Chapter	
1172, Statutes of 1979 .....	-200,000

provided, that the Director of Mental Health may give public notice relative to proposing or amending any rule or regulation which could result in increased cost to any program administered by the Department of Mental Health only after approval by the Department of Finance as to the availability of funds; and provided further, that any rule or regulation adopted by the Director of Mental Health during the 1980-81 fiscal year which adds to the cost of any program administered by the Department of Mental Health shall only be effective from and after the date upon which it is approved as to availability of funds by the Department of Finance.

Provided further, that the Department of Mental Health shall present to the Joint Legislative Budget Committee and the fiscal committees of each house by October 1, 1980, a three-year plan which is to be updated annually, for state hospitals for the mentally disordered which is based on joint county-state planning for regional needs and on a detailed and methodologically sound level of care study of the current state hospital population performed jointly by county and state staff. The plan shall include provision for regional programs at state hospitals, or facilities comparable to state hospitals, for the core group of persons needing long-term secure institutional care.

Provided further, that there shall be oversight of the planning process by a task force convened and chaired by the director or his designee which shall be comprised of the director, the hospital director of each state hospital serving the mentally disabled, representatives of private providers, and representatives of the Conference on Local Mental Health Directors. This task force shall meet at least once a month until the plan is completed. The plan shall include consideration of capital outlay requirements as needed to develop regional programs, whether in the community or at state facilities, and a description of all major obstacles to county purchase or operation, or both, of state hospitals.

Provided further, that no more than \$80,000 of the funds appropriated in this item or from any other source may be expended for the continued

development of a hospital patient care system, and the system shall be limited to the admissions and discharge functions until such time as the Department of Mental Health has done all of the following:

- (1) Submitted to the Joint Legislative Budget Committee a plan developed jointly with the Department of Developmental Services for automating state hospital operations. The components of the plan shall be those specified in the supplemental report language adopted for this item.
- (2) Proposed and supplied to the Joint Legislative Budget Committee a work plan for the Mental Health Information System project which does not require that the work to be performed be based on the automated patient care system already selected by the Department of Mental Health.
- (3) Contracted with a consultant to determine the most appropriate hospital automation system for the state hospitals. The specific requirements of the contract shall be those identified in the supplemental report language adopted for this item. The department shall provide a statement of work to be performed by the consultant to the Joint Legislative Budget Committee and include that statement as part of the contract. For the purposes of the study, the department may contract on a sole source basis with the consultant selected for the Mental Health Information System project.

Provided further, that no developmental effort relating to the automated patient care system may occur after September 30, 1980, if the consultant's report recommends a system different than the one selected by the department.

Provided further, that the department shall provide the Joint Legislative Budget Committee by September 1, 1980, a tentative description of data processing activities for the 1980-81 fiscal year. The components of the description shall be those specified in the supplemental report language adopted for this item. The department shall provide updates to this description on a quarterly basis to the joint committee.

Provided further, that the department shall allocate funds for the support and operation of the

Office of Mental Health Social Services to the counties. The counties may determine the level of services to be purchased from the Department of Mental Health or any other provider of protective social services, provided that the level of protective social services may not be reduced below the July 1, 1980, level.

Provided further, that the provision of services through the Office of Mental Health Social Services shall be exempt from the state hiring freeze process.

Provided further, that counties electing to increase or reduce the level of services to be purchased from the Department of Mental Health after July 1, 1980, shall notify the Director of Mental Health six months in advance of the date of such increase or reduction.

Provided further, that if the county elects to directly provide protective social services in lieu of purchasing such services from the Department of Mental Health, the guidelines of the Department of Mental Health which were applied to counties so electing prior to July 1, 1980, shall apply, and it is the intent of this proviso to enable the transfer of state employees to county employment in such a way that personnel benefits are protected.

Provided further, that the department shall provide, not later than December 1, 1980, a report on the Health Training Centers to the fiscal committees of each house and the Joint Legislative Budget Committee, which report shall include (1) a description of the training provided, clients served and the benefits resulting from training, (2) a plan for operating on a reimbursement basis in 1981-82, and (3) a proposed fee schedule.

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 permit San Joaquin County to build a mental health complex to reduce inappropriate state hospital usage as soon as possible and to better serve its residents in a timely fashion, it is necessary that this act take immediate effect.

## CHAPTER 1240

An act to amend the heading of Article 4.4 (commencing with Section 14140) of Chapter 7 of Part 3 of Division 9 of, and to amend Sections 14141, 14142, 14143, 14144 and 14145 of, the Welfare and Institutions Code, relating to Medi-Cal.

[Approved by Governor September 28, 1980. Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. The heading of Article 4.4 (commencing with Section 14140) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code is amended to read:

Article 4.4. Dialysis, Parenteral Hyperalimentation, and Related  
Services

SEC. 2. Section 14141 of the Welfare and Institutions Code is amended to read:

14141. Net worth liability shall be determined as of the time of the initial dialysis or parenteral hyperalimentation treatment and shall be reevaluated each year by the department.

SEC. 3. Section 14142 of the Welfare and Institutions Code is amended to read:

14142. Notwithstanding Section 14005.4 or 14005.7, a person who is otherwise eligible for either dialysis or parenteral hyperalimentation and related services under Section 14005.4 or 14005.7, except for his income and resource eligibility, is eligible for dialysis, parenteral hyperalimentation, and related services under Medi-Cal pursuant to this article, as follows:

(a) A person in a family unit with a net worth of less than five thousand dollars (\$5,000) shall not be liable to pay for dialysis, parenteral hyperalimentation, and related services.

(b) A person in a family unit with a net worth of five thousand dollars (\$5,000) or above shall pay 2 percent of the cost of dialysis, parenteral hyperalimentation, and related services for each five thousand dollars (\$5,000) of net worth, up to a maximum net worth of two hundred fifty thousand (\$250,000), which shall result in a person being liable for 100 percent of such costs.

SEC. 4. Section 14143 of the Welfare and Institutions Code is amended to read:

14143. The health care benefits and services specified in this article, to the extent that such benefits and services are neither provided under any other federal or state law nor provided nor available under other contractual or legal entitlements of the person, shall be provided to any dialysis or parenteral hyperalimentation patient who is a resident of this state and is made eligible by the

provisions of this article. After such dialysis or parenteral hyperalimentation patient has utilized such contractual or legal entitlements, the percentages of payment liability under Section 14142 shall then be applied to the remaining cost of dialysis or parenteral hyperalimentation.

SEC. 5. Section 14144 of the Welfare and Institutions Code is amended to read:

14144. The provisions of this article do not apply to indigent dialysis or parenteral hyperalimentation patients who are otherwise eligible for Medi-Cal or to any person eligible for renal dialysis under the provisions of Public Law 92-603 (H.R. 1).

SEC. 6. Section 14145 of the Welfare and Institutions Code is amended to read:

14145. 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, parenteral hyperalimentation, 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 or who receives parenteral hyperalimentation services through self-parenteral hyperalimentation, shall be eligible for dialysis, parenteral hyperalimentation, 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) of family unit net worth up to a maximum net worth of five hundred thousand dollars (\$500,000). Persons eligible for services under this section shall not be subject to Section 14144.

SEC. 7. 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 not become operative unless the Budget Act of 1980, as chaptered, appropriates or reappropriates funds for the purposes of this act.

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## CHAPTER 1241

An act making an appropriation to pay claims of local agencies and school districts for additional reimbursement for specified state mandated local costs, awarded by the State Board of Control, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1980 Filed with  
Secretary of State September 29, 1980 ]

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

SECTION 1. The sum of seven million five hundred seventy-one thousand eight hundred four dollars and ninety cents (\$7,571,804.90) is hereby appropriated from the General Fund to the State Board of Control to pay the claims awarded pursuant to Article 3.5 (commencing with Section 2250) of Chapter 3 of Part 4 of Division 1 of the Revenue and Taxation Code during calendar year 1980.

SEC. 2. The Board of Control shall not make any reimbursement for any indirect costs for professional and consultant services and shall amend its parameters and guidelines to prohibit reimbursement of such costs.

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 settle claims against the state and end hardships to claimants as quickly as possible, it is necessary for this act to take effect immediately.

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## CHAPTER 1242

An act to amend Sections 3294 and 3295 of the Civil Code, relating to punitive damages.

[Approved by Governor September 28, 1980. Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. Section 3294 of the Civil Code is amended to read:  
3294. (a) In an action for the breach of an obligation not arising from contract, where the defendant has been guilty of oppression, fraud, or malice, the plaintiff, in addition to the actual damages, may recover damages for the sake of example and by way of punishing the defendant.

(b) An employer shall not be liable for damages pursuant to subdivision (a), based upon acts of an employee of the employer, unless the employer had advance knowledge of the unfitness of the employee and employed him or her with a conscious disregard of the rights or safety of others or authorized or ratified the wrongful conduct for which the damages are awarded or was personally guilty of oppression, fraud, or malice. With respect to a corporate employer, the advance knowledge, ratification, or act of oppression, fraud, or malice must be on the part of an officer, director, or managing agent of the corporation.

(c) As used in this section, the following definitions shall apply:

(1) "Malice" means conduct which is intended by the defendant

to cause injury to the plaintiff or conduct which is carried on by the defendant with a conscious disregard of the rights or safety of others.

(2) "Oppression" means subjecting a person to cruel and unjust hardship in conscious disregard of that person's rights.

(3) "Fraud" means an intentional misrepresentation, deceit, or concealment of a material fact known to the defendant with the intention on the part of the defendant of thereby depriving a person of property or legal rights or otherwise causing injury.

SEC. 2. Section 3295 of the Civil Code is amended to read:

3295. (a) The court may, for good cause, grant any defendant a protective order requiring the plaintiff to produce evidence of a prima facie case of liability for damages pursuant to Section 3294, prior to the introduction of evidence of:

(1) The profits the defendant has gained by virtue of the wrongful course of conduct of the nature and type shown by the evidence.

(2) The financial condition of the defendant.

(b) Nothing in this section shall prohibit the introduction of prima facie evidence to establish a case for damages pursuant to Section 3294.

(c) No pretrial discovery by the plaintiff shall be permitted with respect to the evidence referred to in paragraphs (1) and (2) of subdivision (a) unless the court enters an order permitting such discovery pursuant to this subdivision. However, the plaintiff may subpoena documents or witnesses to be available at the trial for the purpose of establishing the profits or financial condition referred to in subdivision (a), and the defendant may be required to identify documents in the defendant's possession which are relevant and admissible for that purpose and the witnesses employed by or related to the defendant who would be most competent to testify to those facts. Upon motion by the plaintiff supported by appropriate affidavits and after a hearing, if the court deems a hearing to be necessary, the court may at any time enter an order permitting the discovery otherwise prohibited by this subdivision if the court finds, on the basis of the supporting and opposing affidavits presented, that the plaintiff has established that there is a substantial probability that the plaintiff will prevail on the claim pursuant to Section 3294. Such order shall not be considered to be a determination on the merits of the claim or any defense thereto and shall not be given in evidence or referred to at the trial.

SEC. 3. If any provision of this act or the application thereof to any person or circumstance is held invalid, such invalidity shall not affect any other provision or application of this act which can be given effect without the invalid provision or application, and to this end, the provisions of this act are severable.

## CHAPTER 1243

An act relating to certain employees of the Department of Transportation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1980 Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. Due to the alarming number of deaths and disabilities that employees in certain employee classifications within the Department of Transportation and employed in work assignments directly related to roadways with unrestricted weight limits and where speed is the maximum allowable or restricted due to the roadway traversing over or through bridges, tunnels, or tubes, have suffered, the Division of Occupational Safety and Health in the Department of Industrial Relations, working with the Department of Transportation and other appropriate state agencies, is directed to study and recommend to the Legislature no later than January 1, 1981, methods to improve the occupational safety of such employees.

The study shall include methods and costs of informing the motoring public of the dangers and the types and costs of improved early warning devices including, but not limited to, warning lights, air horn signals, and better coneing methods.

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 this act shall become operative as early as possible in the 1980–81 fiscal year and that further deaths and disabilities can be prevented, this bill must take effect immediately.

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CHAPTER 1244

An act to add and repeal Section 21231 of the Government Code, relating to the Public Employees' Retirement System, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 28, 1980 Filed with  
Secretary of State September 29, 1980 ]

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

SECTION 1. Section 21231 is added to the Government Code, to read:

21231. (a) The board shall transfer an amount of the reserve for deficiencies retained in the retirement fund pursuant to Section 20203 which exceeds 2 percent of the total assets of the retirement fund into a special account which shall be used for the sole purpose of providing quarterly increases from October 1, 1980, through September 30, 1982, as specified by subdivision (d), in the monthly allowance of every retired person or survivor or beneficiary of a state or local member or retired person, who was eligible to receive any allowance on December 31, 1979, notwithstanding the limitations on such increases imposed by this article and in addition to any other adjustment made pursuant to this article.

(b) The amount specified in subdivision (a) is hereby appropriated to the board without regard to fiscal years. Whenever the board determines that there are sufficient funds in the special account created pursuant to subdivision (a), the board shall apply such funds to the increases authorized by this section. If the funds in the special account are not sufficient to pay the increases prescribed in subdivision (d), the board shall proportionately reduce all payments. All funds remaining in the special account on January 1, 1983, shall be transferred back to the reserve for deficiencies.

(c) The board shall inform each recipient of benefits under subdivision (a) that the increases are not cumulative and shall not be included in their base allowance and may be available for only a limited period of time.

(d) The total quarterly increases shall be 10 percent of the quarterly allowance payable to an annuitant or eligible survivor or beneficiary on October 1, 1980. The board, on October 1, 1980, and, upon the commencement of each quarter thereafter, shall pay the benefit provided by this section for the succeeding quarter.

SEC. 2. The Governor shall consider and may include in the Budget Bill for each fiscal year an appropriation to provide supplementary increases in the retirement allowances paid with respect to retired state members, other than school members, in addition to any increases in allowances authorized by and granted pursuant to the other provisions of this article and notwithstanding the limitation on such increases imposed by this article. The funding for such changes, if any, may be considered in the meet and confer process and dealt with in the Budget Bill in conjunction with salary increases for active state employees. Nothing herein shall prevent organizations of retired employees from being involved in discussions on supplementary increases and on other matters relating to their retired employee members.

SEC. 3. Section 1 of this act 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. 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 of the act to be implemented during the 1980-81 fiscal year, it is necessary that this act take effect immediately.

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## CHAPTER 1245

An act to add Section 73 to the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 28, 1980 Filed with  
Secretary of State September 29, 1980 ]

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

SECTION 1. Section 73 is added to the Revenue and Taxation Code, to read:

73. For purposes of subdivision (a) of Section 2 of Article XIII A of the Constitution, the term "newly constructed" shall not include the construction or addition of any solar energy system, as defined in subparagraph (A) of paragraph (6) of subdivision (h) of Section 17052.5. In the case of solar swimming pool heaters, "new construction" shall not include the increment of cost in excess of the cost of a comparable conventional fossil fuel heating system.

SEC. 2. This act shall take effect upon the adoption by the people of Senate Constitutional Amendment No. 28 of the 1979-80 Regular Session and shall apply only to lien dates for fiscal years commencing 1981 through 1985, inclusive.

SEC. 3. Notwithstanding Section 2229 of the Revenue and Taxation Code, there shall be no reimbursement for property tax revenues lost as a result of this measure for the reason that this measure will implement an amendment to the California Constitution which must be approved by voters of the state and would not become operative until such amendment is adopted by the people.

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## CHAPTER 1246

An act to repeal and add Section 6012.7 of the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor, to take effect immediately, tax levy.

[Approved by Governor September 28, 1980 Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. Section 6012.7 of the Revenue and Taxation Code is repealed.

SEC. 2. Section 6012.7 is added to the Revenue and Taxation Code, to read:

6012.7. (a) For the purposes of this part, "gross receipts" from the sale of factory-built housing, and the "sales price" of factory-built housing, sold or stored, used, or otherwise consumed in this state shall be 40 percent of the sales price of the factory-built housing to the consumer.

(b) For purposes of this section, "factory-built housing" includes:

(1) A residential building, dwelling unit or an individual dwelling room or combination of rooms thereof, or building component, assembly, or system manufactured in such a manner that all concealed parts or processes of manufacture cannot be inspected before installation at the building site without disassembly, damage, or destruction of the part, including units designed for use as part of an institution for resident or patient care, which is either wholly manufactured or is in substantial part manufactured at an offsite location to be wholly or partially assembled onsite in accordance with regulations adopted by the Commission of Housing and Community Development of the State of California pursuant to Section 19990 of the Health and Safety Code or in accordance with applicable local building requirements if such factory-built housing is inspected and approved by the local enforcement agency at the place of, and during the time of, manufacture.

(2) "Modular housing," which is a three-dimensional box or cube-shaped structure or structures making up one or more rooms of a residential building.

(3) "Sectionalized housing," which generally consists of two modules which form a total living unit.

(4) "Modular," "utility," or "wet cores," which are three-dimensional habitable rooms or modules and which are generally comprised of a kitchen or a bathroom or bathrooms.

(c) For purposes of this section, "factory-built housing" does not include:

(1) A "mobilehome," as defined in Section 18008 of the Health and Safety Code.

(2) "Precut housing packages" where more than 50 percent of the package consists of precut lumber only.

(3) "Panelized construction," such as walls or components that may become one or more rooms of a building, unless a complete housing package is provided by the builder or manufacturer, such as by providing wall panels, floors, and a roof which will form a complete housing structure.

(4) "Porches" or "awnings" which are not purchased as a part of the original housing package.

(d) If a purchaser certifies in writing to a retailer that the

factory-built housing purchased will be consumed in a manner or for a purpose entitling the retailer to exclude 60 percent of the gross receipts or sales price from the measure of tax, and uses the property in some other manner or for some other purpose, the purchaser shall be liable for payment of tax measured by 60 percent of the sales price.

SEC. 3. The sum of one hundred thousand dollars (\$100,000) 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 2 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. Notwithstanding Section 2230, 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 provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect. However, the provisions of Section 2 of this act shall become operative on the first day of the first calendar quarter commencing more than 60 days after the effective date of this act.

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## CHAPTER 1247

An act to amend Section 4600 of the Labor Code, relating to workers' compensation.

[Approved by Governor September 28, 1980. Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. Section 4600 of the Labor Code is amended to read:  
4600. Medical, surgical, chiropractic, and hospital treatment, including nursing, medicines, medical and surgical supplies, crutches, and apparatus, including artificial members, which is reasonably required to cure or relieve from the effects of the injury shall be provided by the employer. In the case of his neglect or refusal seasonably to do so, the employer is liable for the reasonable expense incurred by or on behalf of the employee in providing treatment. After 30 days from the date the injury is reported, the employee may be treated by a physician of his own choice or at a facility of his own choice within a reasonable geographic area. However, if an employee has notified his employer in writing prior to the date of injury that he or she has a personal physician, the

employee shall have the right to be treated by such physician from the date of injury. For the purpose of this section, "personal physician" means the employee's regular physician and surgeon, licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, who has previously directed the medical treatment of the employee, and who retains the employee's medical records, including his or her medical history.

In accordance with the rules of practice and procedure of the appeals board, the employee, or the dependents of a deceased employee, shall be reimbursed for expenses reasonably, actually, and necessarily incurred for X-rays, laboratory fees, medical reports, medical testimony, and, as needed, interpreter's fees, to prove a contested claim. The reasonableness of and necessity for incurring such expenses to prove a contested claim shall be determined with respect to the time when such expenses were actually incurred. Expenses of medical testimony shall be presumed reasonable if in conformity with the fee schedule charges provided for impartial medical experts appointed by the administrative director.

Where at the request of the employer, the employer's insurance carrier, the administrative director, the appeals board or a referee, the employee submits to examination by a physician, he shall be entitled to receive in addition to all other benefits herein provided all reasonable expenses of transportation, meals and lodging incident to reporting for such examination, together with one day of temporary disability indemnity for each day of wages lost in submitting to such an examination. "Reasonable expenses of transportation" includes mileage fees from the employee's home to the place of the examination and back at the rate of twenty-one cents (\$.21) a mile, plus any bridge tolls. Such mileage and tolls shall be paid to the employee at the time he is given notification of the time and place of the examination.

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 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.

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## CHAPTER 1248

An act to add and repeal Section 6358.1 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 28, 1980. Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. Section 6358.1 is added to the Revenue and Taxation Code, to read:

6358.1. There are exempted from taxes imposed by this part the gross receipts from the sale of and the storage, use, or other consumption in this state of either of the following:

(a) Organic products grown expressly for fuel purposes.

(b) Waste byproducts from agricultural or forest products operations, municipal refuse, or manufacturing, which are delivered in bulk, and are used in an industrial facility as a fuel source in lieu of the use of either oil, natural gas or coal.

This section shall remain in effect until December 31, 1986, and as of December 31, 1986, is repealed unless a later enacted statute which is chaptered before December 31, 1986, deletes or extends such date.

SEC. 2. The Legislative Analyst shall, on or before December 31, 1985, report to the Legislature, concerning the economic impact of this act.

SEC. 3. Notwithstanding Section 2230 of the Revenue and Taxation Code, no appropriation is made by this act, and the state shall not reimburse any local agency for any sales and use tax revenues lost by it under this act.

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.

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## CHAPTER 1249

An act to add Section 4215.5 to the Government Code, relating to pipelines.

[Approved by Governor September 28, 1980. Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. Section 4215.5 is added to the Government Code, to read:

4215.5. The legislative body of a city, city and county, or county may by ordinance require public utility companies owning or operating subsurface installations and all other owners or operators of subsurface installations within public streets, to become members, participate in the activities, and share in the costs of a regional

notification center providing advance warning of excavations or other work close to existing installations, for the purpose of protecting such installations from damage, removal, relocation, or repair.

This section shall apply only to a city, county, or city and county in which three or more public utility companies or other owners or operators were members of a regional notification center prior to January 1, 1980.

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.

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## CHAPTER 1250

An act to amend Sections 18046, 18051.1, and 18052 of, to repeal Sections 18047 and 18104 of, the Revenue and Taxation Code, and to amend Section 157 of Chapter 1079 of the Statutes of 1977, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 28, 1980 Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. Section 18046 of the Revenue and Taxation Code is amended to read:

18046. Sections 18044 and 18045 shall not apply to property which constitutes a right to receive an item of income in respect of a decedent under Sections 17831 to 17837, inclusive.

SEC. 2. Section 18047 of the Revenue and Taxation Code is repealed.

SEC. 2.5. Section 18051.1 of the Revenue and Taxation Code is amended to read:

18051.1. (a) If—

(1) The property is acquired by gift on or after the date of the enactment of this section, the basis shall be the basis determined under Section 18049, increased (but not above the fair market value of the property at the time of the gift) by the amount of federal gift tax paid with respect to such gift, or

(2) The property was acquired by gift before the date of the enactment of this section and has not been sold, exchanged, or otherwise disposed of before such date, the basis of the property shall be increased on such date by the amount of federal gift tax paid with respect to such gift, but such increase shall not exceed an amount

equal to the amount by which the fair market value of the property at the time of the gift exceeded the basis of the property in the hands of the donor at the time of the gift.

(b) For purposes of subdivision (a), the amount of the federal gift tax paid with respect to any gift is an amount which bears the same ratio to the amount of gift tax paid under Chapter 12 of the Internal Revenue Code of 1954 with respect to all gifts made by the donor for the calendar year in which such gift is made as the amount of such gift bears to the taxable gifts (as defined in Section 2503 (a) of the Internal Revenue Code of 1954 but computed without the deduction allowed by Section 2521 of the Internal Revenue Code of 1954) made by the donor during such calendar year. For purposes of the preceding sentence, the amount of any gift shall be the amount included with respect to such gift in determining (for the purposes of Section 2503 (a) of the Internal Revenue Code of 1954) the total amount of gifts made during the calendar year, reduced by the amount of any deduction allowed with respect to such gift under Section 2522 of the Internal Revenue Code of 1954 (relating to charitable deduction) or under Section 2523 of the Internal Revenue Code of 1954 (relating to marital deduction).

(c) For purposes of subdivision (a), where the donor and his spouse elected, under Section 2513 of the Internal Revenue Code of 1954 to have the gift considered as made one-half by each, the amount of gift tax paid with respect to such gift under Chapter 12 of the Internal Revenue Code of 1954 shall be the sum of the amounts of tax paid with respect to each half of such gift (computed in the manner provided in subdivision (b)).

(d) For purposes of Section 18053(d), an increase in basis under subdivision (a) shall be treated as an adjustment under Section 18052.

(e) With respect to any property acquired by gift before 1955, references in this section to any provision of the Internal Revenue Code shall be deemed to refer to the corresponding provisions of the Internal Revenue Code of 1939 or prior federal revenue laws which were effective for the year in which such gift was made.

SEC. 3. Section 18052 of the Revenue and Taxation Code is amended to read:

18052. Proper adjustment in respect of the property shall in all cases be made—

(a) For proper expenditures, receipts, losses, or other items, properly chargeable to capital account, but no such adjustment shall be made—

(1) For taxes or other carrying charges described in Section 17286, or

(2) For expenditures described in Section 17222 (relating to circulation expenditures), for which deductions have been taken by the taxpayer in determining taxable income for the taxable year or prior taxable years;

(b) To the extent sustained prior to January 1, 1935, and for

periods thereafter, for exhaustion, wear and tear, obsolescence, amortization, and depletion, to the extent of the amount—

(1) Allowed as deductions in computing taxable income under this part or prior income tax laws, and

(2) Resulting (by reason of the deductions so allowed) in a reduction for any taxable year of the taxpayer's taxes under this part, but not less than the amount allowable under this part or prior income tax laws. Where no method has been adopted under Sections 17208 to 17211.7, inclusive (relating to depreciation deduction), the amount allowable shall be determined under paragraph (1) of subdivision (b) of Section 17208.

(c) In respect of any period—

(1) Before January 1, 1935, and

(2) Since December 31, 1934, during which such property was held by a person or an organization not subject to income taxation under this part or prior income tax laws, for exhaustion, wear and tear, obsolescence, amortization, and depletion, to the extent sustained.

(d) In the case of stock (to the extent not provided for in the foregoing subdivisions) for the amount of distributions previously made which, under the law applicable to the year in which the distribution was made, either were tax free or were applicable in reduction of basis (not including distributions made by a corporation which was classified as a personal service corporation under the provisions of the Revenue Act of 1918 (40 Stat. 1057), or the Revenue Act of 1921 (42 Stat. 227), out of its earnings or profits which were taxable in accordance with the provisions of Section 218 of the Revenue Act of 1918 or 1921);

(e) In the case of any bond (as defined in Section 17220) the interest on which is wholly exempt from the tax imposed by this part, to the extent of the amortizable bond premium disallowable as a deduction pursuant to subdivision (b) of Section 17217, and in the case of any other bond (as defined in Section 17220) to the extent of the deductions allowable pursuant to subdivision (a) of Section 17217 with respect thereto;

(f) In the case of any municipal bond (as defined in Section 17116), to the extent provided in subdivision (b) of Section 17115;

(g) In the case of a residence the acquisition of which resulted, under Sections 18091 to 18100, inclusive, in the nonrecognition of any part of the gain realized on the sale, exchange, or involuntary conversion of another residence, to the extent provided in Section 18095;

(h) In the case of property pledged to the Commodity Credit Corporation, to the extent of the amount received as a loan from the Commodity Credit Corporation and treated by the taxpayer as income for the year in which received pursuant to Section 17117, and to the extent of any deficiency on such loan with respect to which the taxpayer has been relieved from liability;

(i) For amounts allowed as deductions as deferred expenses under

subdivision (b) of Section 17690 (relating to certain expenditures in the development of mines) and resulting in a reduction of the taxpayer's taxes under this part, but not less than the amounts allowable under such section for the taxable year and prior years;

(j) For amounts allowed as deductions as deferred expenses under subdivision (b) of Section 17689 or Section 17689.5 (relating to certain exploration expenditures) and resulting in a reduction of the taxpayer's taxes under this part, but not less than the amounts allowable under such section for the taxable year and prior years;

(k) For deductions to the extent disallowed under Section 17291 (relating to sale of land with unharvested crops), notwithstanding the provisions of any other subdivision of this section;

(l) For amounts allowed as deductions as deferred expenses under paragraph (1) of subdivision (b) of Section 17223 (relating to research and experimental expenditures) and resulting in a reduction of the taxpayer's taxes under this part, but not less than the amounts allowable under such section for the taxable year and prior years;

(m) For amounts allowed as deductions for expenditures treated as deferred expenses under Section 17227 (relating to trademark and trade name expenditures) and resulting in a reduction of the taxpayer's taxes under this part, but not less than the amounts allowable under such section for the taxable year and prior years;

(n) For amounts allowed as deductions for payments made on account of transfers of franchises, trademarks, or trade names under paragraph (2) of subdivision (d) of Section 18218.5.

SEC. 4. Section 18104 of the Revenue and Taxation Code is repealed.

SEC. 5. Section 157 of Chapter 1079 of the Statutes of 1977 is amended to read:

Sec. 157. (a) All sections of this act affecting changes to the Personal Income Tax Law, unless otherwise specified in such sections, shall be applied in the computation of taxes for taxable years beginning after December 31, 1976.

(b) Sections 95, 96, and 97 of this act shall be inoperative.

SEC. 5.5. Notwithstanding any other provision of law, in the case of a decedent dying after December 31, 1976, and before November 7, 1978, if the executor (within the meaning of Section 2203 of the Internal Revenue Code of 1954) of such decedent's estate irrevocably elects to have the basis of all property acquired from or passing from the decedent (within the meaning of Section 1014(b) of the Internal Revenue Code of 1954) determined for all purposes under such code as though the provisions of Section 2005 of the Tax Reform Act of 1976 (as amended by the provisions of Section 702(c) of the Revenue Act of 1978) applied to such property acquired or passing from such decedent pursuant to subdivision (d) of Section 401 of the Crude Oil Windfall Profit Tax Act of 1980, then such election shall be deemed to be made for state purposes unless the Franchise Tax Board is notified in writing otherwise of the federal

election on or before December 31, 1980.

SEC. 6. The Legislature finds and declares that this act shall serve a public purpose by providing the California Legislature time to reconsider the impact of revising the basis of property acquired from decedents on the state economy and to relieve taxpayers of the burden of such provisions, which were amended by the provisions of Chapter 1079 of the Statutes of 1977 for the purpose of conforming to the federal income tax law. The federal income tax law relating to these carryover basis rules were repealed in April, 1980.

SEC. 7. This act provides for a tax levy within the meaning of Article IV of the Constitution and shall go into immediate effect.

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## CHAPTER 1251

An act relating to special education, and making an appropriation therefor.

[Approved by Governor September 28, 1980. Filed with  
Secretary of State September 29, 1980 ]

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

SECTION 1. (a) The County Superintendent of Schools of Fresno County is presently maintaining an occupational training program for individuals with exceptional needs under the age of 21, as formerly authorized by Article 6 (commencing with Section 56070) of Chapter 1 of Part 30 of the Education Code, as it read prior to July 1, 1980. Current statutory law does not authorize such programs to be maintained for persons over the age of 21 even though the need for such training exists and is especially critical at this age. The occupational training program presently maintained at one site could readily be extended to eligible persons over the age of 21 but below the age of 25.

(b) The County Superintendent of Schools of Fresno County may establish a pilot project to extend the present occupational training program for individuals with exceptional needs formerly maintained pursuant to Article 6 (commencing with Section 56070) of Chapter 1 of Part 30 of the Education Code, as it read prior to July 1, 1980, to persons who are over 21 years of age but less than 25 years of age who, but for their age, would be individuals with exceptional needs within the meaning of Section 56206 of the Education Code, and to determine whether such persons can become vocationally self-sufficient.

(c) The pilot project shall satisfy the following requirements:

(1) Not more than two classes of at least 24 pupils each over the age of 21 but below the age of 25, shall be established.

(2) Administration and support services presently serving the occupational training program shall also serve the pilot project.

(3) Additional personnel shall be employed, including, but not limited to, one teacher, two aides, and one vocational counselor to work with pupils, teachers, and representatives from the Department of Rehabilitation.

(4) The curriculum shall emphasize mobility training and increased use of community resources.

(5) Assessment procedures which ensure that pupils are employed as soon as employment is feasible and that pupils are referred to the Department of Rehabilitation for vocational services as soon as referral is feasible shall be established.

(6) Records of pupil progress shall be maintained and reviewed.

(7) Preference for participation shall be given to persons who have had limited occupational training.

(d) The County Superintendent of Schools of Fresno County and the Department of Rehabilitation shall each prepare and submit to the Department of Education and the Legislature not later than March 5th of 1982, 1983, and 1984 an annual report on the progress of the pilot project, and by October 1, 1984, a final report on the pilot project. These reports shall include, but not be limited to, a determination of whether persons who are over 21 years of age but less than 25 years of age who, but for their age, would be individuals with exceptional needs within the meaning of Section 56206 of the Education Code can become vocationally self-sufficient.

(e) The County Superintendent of Schools of Fresno County may adopt rules and regulations to implement the provisions of this act.

(f) The pilot project shall commence July 1, 1981, and terminate June 30, 1984.

SEC. 2. There is hereby appropriated from the General Fund to the Department of Education the sum of seventy-five thousand dollars (\$75,000) to be allocated to the County Superintendent of Schools of Fresno County for purposes of this act according to the following schedule:

January 1, 1981 to June 30, 1982 .....	\$25,000
July 1, 1982 to June 30, 1983 .....	\$25,000
July 1, 1983 to June 30, 1984 .....	\$25,000

SEC. 3. This act shall remain in effect only until October 1, 1984, and as of such date is repealed unless a later enacted statute, which is chaptered before October 1, 1984, deletes or extends such date.

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CHAPTER 1252

An act to amend Section 20541 of the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 28, 1980 Filed with  
Secretary of State September 29, 1980 ]

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

SECTION 1. Section 20541 of the Revenue and Taxation Code is amended to read:

20541. (a) Subject to the limitations provided in this chapter a claimant may, to the extent provided in Section 20543 or 20544, whichever is applicable, file with the Franchise Tax Board, pursuant to Article 3 (commencing with Section 20561) of this chapter, a claim for assistance from the State of California of a sum equal to a percentage of the property taxes accrued and paid by the claimant on his residential dwelling or a sum equal to the percentage of the applicable statutory property tax equivalent under Section 20544 with respect to a claimant renting his residence.

(b) The owner of a dwelling unit which is a mobilehome subject to the license fee imposed by Part 5 (commencing with Section 10701) of this division which is located on land which is owned or rented by such owner may elect to file under subdivision (a) for assistance provided in either Section 20543 or 20544.

SEC. 2. The provisions of this act shall apply to claims for assistance for the 1980-81 fiscal year and years thereafter.

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## CHAPTER 1253

An act to amend Section 1370.1 of, and to add and repeal Chapter 2.8 (commencing with Section 1001.20) to Title 6 of Part 2 of, the Penal Code, relating to mentally retarded defendants, and making an appropriation therefor.

[Approved by Governor September 28, 1980. Filed with  
Secretary of State September 29, 1980 ]

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

SECTION 1. Chapter 2.8 (commencing with Section 1001.20) is added to Title 6 of Part 2 of the Penal Code, to read:

### CHAPTER 2.8. DIVERSION OF MENTALLY RETARDED DEFENDANTS

1001.20. As used in this chapter:

(a) "Mentally retarded" means the condition of significantly subaverage general intellectual functioning existing concurrently with deficits in adaptive behavior and manifested during the developmental period.

(b) "Diversion-related treatment and habilitation" means, but is not limited to, specialized services or special adaptations of generic

services, directed towards the alleviation of mental retardation or towards social, personal, physical, or economic habilitation or rehabilitation of an individual with such a disability, and includes, but is not limited to, diagnosis, evaluation, treatment, personal care, day care, domiciliary care, special living arrangements, physical, occupational, and speech therapy, training, education, sheltered employment, mental health services, recreation, counseling of the individual with such disability and of his family, protective and other social and socio-legal services, information and referral services, follow-along services, and transportation services necessary to assure delivery of services to mentally retarded persons.

(c) "Regional center" means a regional center for the developmentally disabled established under the Lanterman Developmental Disabilities Services Act which is organized as a private nonprofit community agency to plan, purchase, and coordinate the delivery of services which cannot be provided by state agencies to developmentally disabled persons residing in a particular geographic catchment area, and which is licensed and funded by the State Department of Developmental Services.

(d) "Director of a regional center" means the executive director of a regional center for the developmentally disabled or his or her designee.

(e) "Agency" means the prosecutor, the probation department, and the regional center involved in a particular defendant's case.

(f) "Dual agency diversion" means a treatment and habilitation program developed with court approval by the regional center, administered jointly by the regional center and by the probation department, which is individually tailored to the needs of the defendant as derived from the defendant's individual program plan pursuant to Section 4646 of the Welfare and Institutions Code, and which includes, but is not limited to, treatment specifically addressed to the criminal offense charged, for a specified period of time as prescribed in Section 1001.28.

(g) "Single agency diversion" means a treatment and habilitation program developed with court approval by the regional center, administered solely by the regional center without involvement by the probation department, which is individually tailored to the needs of the defendant as derived from the defendant's individual program plan pursuant to Section 4646 of the Welfare and Institutions Code, and which includes, but is not limited to, treatment specifically addressed to the criminal offense charged, for a specified period of time as prescribed in Section 1001.28.

1001.21. (a) This chapter shall apply whenever a case is before any court upon an accusatory pleading at any stage of the criminal proceedings, for any person who has been evaluated by a regional center for the developmentally disabled and who is determined to be developmentally disabled by such regional center, and who therefore is eligible for its services.

(b) This chapter applies to any offense which is charged as or

reduced to a misdemeanor, except that diversion shall not be ordered when the defendant previously has been diverted under this chapter within two years prior to the present criminal proceedings.

1001.22. The court shall consult with the prosecutor, the defense counsel, the probation department, and the appropriate regional center in order to determine whether a defendant may be diverted pursuant to this chapter. If the defendant is not represented by counsel, the court shall appoint counsel to represent the defendant. When the court suspects that a defendant may be mentally retarded, as defined in subdivision (a) of Section 1001.20, and the defendant consents to the diversion process and to his or her case being evaluated for eligibility for regional center services, and waives his or her right to a speedy trial, the court shall order the prosecutor, the probation department, and the regional center to prepare reports on specified aspects of the defendant's case. Each report shall be prepared concurrently.

(a) The regional center shall submit a report to the probation department within 25 judicial days of the court's order. The regional center's report shall include a determination as to whether the defendant is mentally retarded and eligible for regional center diversion-related treatment and habilitation services, and the regional center shall also submit to the court a proposed diversion program, individually tailored to the needs of the defendant as derived from the defendant's individual program plan pursuant to Section 4646 of the Welfare and Institutions Code, which shall include, but not be limited to, treatment addressed to the criminal offense charged for a period of time as prescribed in Section 1001.28. The regional center's report shall also contain a statement whether such a proposed program is available for the defendant through the treatment and habilitation services of the regional centers pursuant to Section 4648 of the Welfare and Institutions Code.

(b) The prosecutor shall submit a report on specified aspects of the defendant's case, within 30 judicial days of the court's order, to the court, to each of the other agencies involved in the case, and to the defendant. The prosecutor's report shall include all of the following:

(1) A statement of whether the defendant's record indicates the defendant's diversion pursuant to this chapter within two years prior to the alleged commission of the charged divertible offense.

(2) If the prosecutor recommends that this chapter may be applicable to the defendant, he or she shall recommend either a dual or single agency diversion program and shall advise the court, the probation department, the regional center, and the defendant, in writing, of such determination within 20 judicial days of the court's order to prepare the report.

(3) If the prosecutor recommends against diversion, the prosecutor's report shall include a declaration in writing to state for the record the grounds upon which such recommendation was made, and the court shall determine, pursuant to Section 1001.23, whether

the defendant shall be diverted.

(4) If dual agency diversion is recommended by the prosecutor, a copy of the prosecutor's report shall also be provided by the prosecutor to the probation department, the regional center, and the defendant within the above prescribed time period. This notification shall include all of the following:

(i) A full description of the proceedings for diversion and the prosecutor's investigation procedures.

(ii) A general explanation of the role and authority of the probation department, the prosecutor, the regional center, and the court in the diversion program process.

(iii) A clear statement that the court may decide in a hearing not to divert the defendant and that he or she may have to stand trial for the alleged offense.

(iv) A clear statement that should the defendant fail in meeting the terms of his or her diversion, or if, during the period of diversion the defendant is subsequently charged with a felony, the defendant may be required, after a hearing, to stand trial for the original diverted offense.

(c) The probation department shall submit a report on specified aspects of the defendant's case within 30 judicial days of the court's order, to the court, to each of the other agencies involved in the case, and to the defendant. The probation department's report to the court shall be based upon an investigation by the probation department and consideration of the defendant's age, mental retardation, employment record, educational background, ties to community agencies and family, treatment history, criminal record if any, and demonstrable motivation and other mitigating factors in determining whether the defendant is a person who would benefit from a diversion-related treatment and habilitation program. The regional center's report in full shall be appended to the probation department's report to the court.

1001.23. (a) Upon the court's receipt of the reports from the prosecutor, the probation department, and the regional center, and a determination by the regional center that the defendant is not mentally retarded, the criminal proceedings for the offense charged shall proceed. If the defendant is found to be mentally retarded and eligible for regional center services, and the court determines from the various reports submitted to it that the proposed diversion program is acceptable to the court, the prosecutor, the probation department, and the regional center, and if the defendant consents to diversion and waives his or her right to a speedy trial, the court may order, without a hearing, that the diversion program be implemented for a period of time as prescribed in Section 1001.28.

(b) After consideration of the probation department's report, the report of the regional center, and the report of the prosecutor relating to his or her recommendation for or against diversion, and any other relevant information, the court shall determine if the defendant shall be diverted under either dual or single agency

supervision, and referred for habilitation or rehabilitation diversion pursuant to this chapter. If the court does not deem the defendant a person who would benefit by diversion at the time of the hearing, the suspended criminal proceedings may be reinstated, or such other disposition as authorized by law may be made, and diversion may be ordered at a later date.

(c) Where a dual agency diversion program is ordered by the court, the regional center shall submit a report to the probation department on the defendant's progress in the diversion program not less than every six months. Within five judicial days after receiving the regional center's report, the probation department shall submit its report on the defendant's progress in the diversion program, with the full report of the regional center appended, to the court and to the prosecutor. Where single agency diversion is ordered by the court, the regional center alone shall report the defendant's progress to the court and to the prosecutor not less than every six months.

1001.24. No statement, or information procured therefrom, made by the defendant to any probation officer, the prosecutor, or any regional center designee during the course of the investigation conducted by either the regional center or the probation department pursuant to this chapter, and prior to the reporting to the probation department of the regional center's findings of eligibility and recommendations to the court, shall be admissible in any action or proceeding brought subsequent to this investigation.

1001.25. No statement, or information procured therefrom, with respect to the specific offense with which the defendant is charged, which is made to a probation officer, a prosecutor, or a regional center designee subsequent to the granting of diversion shall be admissible in any action or proceeding brought subsequent to the investigation.

1001.26. In the event that diversion is either denied or is subsequently revoked once it has been granted, neither the probation investigation nor the statements or other information divulged by the defendant during the investigation by the probation department or the regional center shall be used in any sentencing procedures.

1001.27. At such time as the defendant's case is diverted, any bail, bond, or undertaking, or deposit in lieu thereof, on file or on behalf of the defendant shall be exonerated, and the court shall enter an order so directing.

1001.28. The period during which criminal proceedings against the defendant may be diverted shall be no longer than two years. The responsible agency or agencies shall file reports on the defendant's progress in the diversion program with the court and with the prosecutor not less than every six months.

(a) Where dual agency diversion has been ordered, the probation department shall be responsible for the progress reports. The probation department shall append to its own report a copy of the

regional center's assessment of the defendant's progress.

(b) Where single agency diversion has been ordered, the regional center alone shall be responsible for the progress reports.

1001.29. If it appears that the divertee is not meeting the terms and conditions of his or her diversion program, the court may hold a hearing and amend such program to provide for greater supervision by the responsible regional center alone, by the probation department alone, or by both the regional center and the probation department. However, notwithstanding any such modification of a diversion order, the court may hold a hearing to determine whether the diverted criminal proceedings should be reinstated if it appears that the divertee's performance in the diversion program is unsatisfactory, or if the divertee is subsequently charged with a felony during the period of diversion.

(a) In cases of dual agency diversion, a hearing to reinstate the diverted criminal proceedings may be initiated by either the court, the prosecutor, the regional center, or the probation department.

(b) In cases of single agency diversion, a hearing to reinstate the diverted criminal proceedings may be initiated only by the court, the prosecutor, or the regional center.

(c) No hearing for either of these purposes shall be held unless the moving agency or the court has given the divertee prior notice of the hearing.

(d) Where the cause of the hearing is a subsequent charge of a felony against the divertee subsequent to the diversion order, any hearing to reinstate the diverted criminal proceedings shall be delayed until such time as probable cause has been established in court to bind the defendant over for trial on the subsequently charged felony.

1001.30. At any time during which the defendant is participating in a diversion program, he or she may withdraw consent to further participate in the diversion program, and at such time as such consent is withdrawn, the suspended criminal proceedings may resume or such other disposition may be made as is authorized by law.

1001.31. If the divertee has performed satisfactorily during the period of diversion, the criminal charges shall be dismissed at the end of the diversion period.

1001.32. Any record filed with the State Department of Justice shall indicate the disposition of those cases diverted pursuant to this chapter.

1001.33. Upon successful completion of a diversion program, the arrest upon which the diversion was based shall be deemed to have never occurred. The divertee may indicate in response to any question concerning his or her prior criminal record that he or she was not arrested or diverted for such offense. A record pertaining to an arrest resulting in successful completion of a diversion program shall not, without the divertee's consent, be used in any way which may result in the denial of any employment, benefit, license, or

certificate.

1001.34. Notwithstanding any other provision of law, the diversion-related individual program plan shall be fully implemented by the regional centers upon court order and approval of the diversion-related treatment and habilitation plan.

1001.35. The State Department of Developmental Services shall report to the Legislature annually regarding the local implementation, administration, and operation of the program. Such report shall include, but not be limited to, the following:

- (a) The date the local programs commenced.
- (b) General eligibility criteria for divertees used by each program.
- (c) The name of the county or other agency or agencies which established each program.
- (d) The offense charged against each divertee.
- (e) The number of individuals accepted by each program.
- (f) The reasons for not accepting individuals referred to the program.

(g) The specific program completed by each successful divertee.

(h) The number of successful and unsuccessful terminations and the reasons for unsuccessful termination.

(i) The funding source for the diversion organization. At no time shall the name, addresses, or other identifying information of the referred or participating divertees be used in these reports.

SEC. 2. 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 or designee, and that (A) 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 attainment 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 (B) 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 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 be placed on outpatient status, the court shall order the regional center director or 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 approved by the regional center director. No person shall be admitted to a state hospital or other residential facility or accepted for outpatient status under Section 1370.4 without having been evaluated by the regional center director or 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 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 becoming mentally competent. If the defendant has not become mentally competent, but the report discloses a substantial likelihood the defendant will become mentally competent 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 his designee regarding the defendant's progress toward becoming mentally competent. The regional center director or shall transmit that report immediately transmit 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 become mentally competent 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 designee and to 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 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 designee and to 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 become mentally competent shall be returned to the committing court. The court shall notify the regional center director or 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 becomes mentally competent, the defendant 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 and 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 and to the Director of Developmental Services.

SEC. 3. Section 1 of this act shall remain in effect only for three years from its effective date and on such date is repealed.

SEC. 4. (a) The sum of three hundred fifty thousand dollars (\$350,000) is hereby appropriated from the General Fund to the State Department of Developmental Services specifically for the purposes of diversion-related treatment and habilitation services as defined herein.

(b) The sum of one hundred thirty thousand dollars (\$130,000) is hereby appropriated from the General Fund to the Controller for allocation and disbursement to local agencies and school districts to reimburse them for costs mandated by the state and incurred by them pursuant to this act.

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## CHAPTER 1254

An act to amend Section 318 of the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor September 28, 1980. Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. Section 318 of the Welfare and Institutions Code is amended to read:

318. (a) Notwithstanding the provisions of Section 317, when a minor who is alleged to be a person described in subdivision (d) of Section 300 appears before the juvenile court at a detention hearing, the court shall appoint counsel. The court may appoint the district attorney to represent the minor pursuant to Section 351.

(b) The counsel appointed by the court shall represent the minor at the detention hearing and at all subsequent proceedings before the juvenile court.

(c) Any counsel upon entering an appearance on behalf of a minor shall continue to represent that minor unless relieved by the court upon the substitution of other counsel or for cause.

(d) The counsel shall be charged in general with the representation of the child's interests. To that end, he shall make such further investigations as he deems necessary to ascertain the facts, including the interviewing of witnesses, and he shall examine and cross-examine witnesses in both the adjudicatory and dispositional hearings; he may also introduce and examine his own witnesses, make recommendations to the court concerning the child's welfare, and participate further in the proceedings to the degree necessary to adequately represent the child. In addition, the counsel shall investigate the interests of the child beyond the scope of the juvenile proceeding and report to the court other interests of the child that may be protected by other administrative or judicial proceedings, including but not limited to, a civil action pursuant to subdivision (b) of Section 11172 of the Penal Code. The court shall take whatever appropriate action is necessary to fully protect the interests of the child.

(e) Notwithstanding any other provision of law, counsel shall be given access to all records relevant to the case which are maintained by state or local public agencies. Counsel shall be given access to records maintained by hospitals or by other medical or nonmedical practitioners or by child care custodians, in the manner prescribed by Section 1158 of the Evidence Code.

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 the duties, obligations, or responsibilities imposed on local agencies or school districts by this act are such that related costs are incurred as part of their normal operating procedures. 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 1255

An act to amend Sections 39649, 39649.5, 81649, and 81649.5 of, and to add Sections 39649.1 and 81649.1 to, the Education Code, relating to school and community college districts.

[Approved by Governor September 28, 1980. Filed with  
Secretary of State September 29, 1980 ]

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

SECTION 1. Section 39649 of the Education Code is amended to read:

39649. In each school district, the governing board may make repairs, alterations, additions, or painting, repainting, or decorating upon school buildings, repair or build apparatus or equipment, make improvements on the school grounds, erect new buildings, and perform maintenance as defined in Section 39649.1 by day labor, or by force account, whenever the total cost of labor on the job does not exceed seven thousand five hundred dollars (\$7,500), or the total number of hours on the job does not exceed 350 hours, whichever is greater, provided that in any school district having an average daily attendance of 35,000 or greater, the governing board may, in addition, make repairs to school buildings, grounds, apparatus or equipment, including painting or repainting, and perform maintenance as defined in Section 39649.1, by day labor or by force account whenever the total cost of labor on the job does not exceed fifteen thousand dollars (\$15,000), or the total number of hours on the job does not exceed 750 hours, whichever is greater.

For purposes of this section, day labor shall include the use of maintenance personnel employed on a permanent or temporary basis.

SEC. 2. Section 39649.1 is added to the Education Code, to read:

39649.1. For purposes of Section 39649, "maintenance" means routine, recurring, and usual work for the preservation, protection, and keeping of any publicly owned or publicly operated facility for its intended purposes in a safe and continually useable condition for which it was designed, improved, constructed, altered, or repaired. "Facility" means any plant, building, structure, ground facility, utility system, or real property.

This definition of "maintenance" expressly includes, but is not limited to: carpentry, electrical, plumbing, glazing, and other craft work designed consistent with the definition set forth above to preserve the facility in a safe, efficient, and continually useable condition for which it was intended, including repairs, cleaning, and other operations on machinery and other equipment permanently attached to the building or realty as fixtures.

This definition does not include, among other types of work, janitorial or custodial services and protection of the sort provided by

guards or other security forces.

It is the intent of the Legislature that this definition does not include painting, repainting, or decorating other than touchup, but instead it is the intent of the Legislature that such activities be controlled directly by the provisions of Section 39649.

SEC. 3. Section 39649.5 of the Education Code is amended to read:

39649.5. It shall be unlawful to split or separate into smaller work orders or projects any project for the purpose of evading the provisions of this article requiring work to be done by contract after competitive bidding.

The district shall maintain job orders or similar records indicating the total cost expended on each project in accordance with the procedures established in the most recent edition of the California School Accounting Manual for a period of not less than three years after completion of the project.

Notwithstanding the provisions of Section 39640, informal bidding may be used on projects estimated by the district to cost up to and including the limits set forth in Section 39649. For the purpose of securing informal bids, the board shall publish annually in a newspaper of general circulation published in the district, or if there is no such newspaper, then in some newspaper in general circulation in the county, a notice inviting contractors to register to be notified of future informal bidding projects. All contractors included on the informal bidding list shall be given notice of all informal bid projects in such manner as the district deems appropriate.

SEC. 4. Section 81649 of the Education Code is amended to read:

81649. In each community college district, the governing board may make repairs, alterations, additions, or painting, repainting, or decorating upon school buildings, repair or build apparatus or equipment, make improvements on the school grounds, erect new buildings, and perform maintenance as defined in Section 81649.1 by day labor, or by force account, whenever the total cost of labor on the job does not exceed seven thousand five hundred dollars (\$7,500), or the total number of hours on the job does not exceed 350 hours, whichever is greater, provided that in any district having an average daily attendance of 15,000 or greater, the governing board may, in addition, make repairs to school buildings, grounds, apparatus, or equipment, including painting or repainting, and perform maintenance as defined in Section 81649.1, by day labor or by force account whenever the total cost of labor on the job does not exceed fifteen thousand dollars (\$15,000), or the total number of hours on the job does not exceed 750 hours, whichever is greater.

For purposes of this section, day labor shall include the use of maintenance personnel employed on a permanent or temporary basis.

SEC. 5. Section 81649.1 is added to the Education Code, to read:

81649.1. For purposes of Section 81649, "maintenance" means routine, recurring, and usual work for the preservation, protection

and keeping of any publicly owned or publicly operated facility for its intended purposes in a safe and continually useable condition for which it was designed, improved, constructed, altered or repaired. "Facility" means any plant, building, structure, ground facility, utility system, or real property.

This definition of "maintenance" expressly includes but is not limited to: carpentry, electrical, plumbing, glazing, and other craft work designed consistent with the definition set forth above to preserve the facility in a safe, efficient, and continually useable condition for which it was intended, including repairs, cleaning, and other operations on machinery and other equipment permanently attached to the building or realty as fixtures.

This definition does not include, among other types of work, janitorial or custodial services and protection of the sort provided by guards or other security forces.

It is the intent of the Legislature that this definition does not include painting, repainting, or decorating other than touchup, but instead it is the intent of the Legislature that such activities be controlled directly by the provisions of Section 81649.

SEC. 6. Section 81649.5 of the Education Code is amended to read:

81649.5. It shall be unlawful to split or separate into smaller work orders or projects any project for the purpose of evading the provisions of this article requiring work to be done by contract after competitive bidding.

The district shall maintain job orders or similar records indicating the total cost expended on each project in accordance with the procedures established in the most recent edition of the California Community College Budget and Accounting Manual for a period of not less than three years after completion of the project.

Notwithstanding the provisions of Section 81640, informal bidding may be used on projects estimated by the district to cost up to and including the limits set forth in Section 81649. For the purpose of securing informal bids, the board shall publish annually in a newspaper of general circulation published in the district, or if there is no such newspaper, then in some newspaper in general circulation in the county, a notice inviting contractors to register to be notified of future informal bidding projects. All contractors included on the informal bidding list shall be given notice of all informal bid projects, in such manner as the district deems appropriate.

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 1256

An act to add Section 11349.11 to the Government Code, to amend the heading of Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of, and to amend Sections 2205, 2206, 2207, 2207.5, 2231, 2232, 2233, 2234, 2238, 2252, 2253.2, 2255, and 2255.1 of, and to add Chapter 5.5 (commencing with Section 93) to Part 0.5 of Division 1 of, and to add Sections 2208.7, 2218, 2246.1, 2253.3, and to repeal Sections 2225, 2226, 2237 and 2237.1 of, and 2253.4 to, and to repeal and add Section 2253.8 of, the Revenue and Taxation Code, relating to state-mandated local programs.

[Approved by Governor September 28, 1980. Filed with Secretary of State September 29, 1980 ]

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

**SECTION 1.** Section 11349.11 is added to the Government Code, to read:

11349.11. The Office of Administrative Law shall determine whether a regulation reviewed pursuant to Section 11349.1 may require state reimbursement to local agencies or school districts pursuant to Section 2231 of the Revenue and Taxation Code, and shall make this determination known on the face of the written regulation. If the office determines in the affirmative, and if such regulation has not already been reviewed by the Department of Finance for mandated cost purposes, the office shall refer such regulation to the Department of Finance for review.

**SEC. 1.5.** Chapter 5.5 (commencing with Section 93) is added to Part 0.5 of Division 1 of the Revenue and Taxation Code, to read:

**CHAPTER 5.5. PROPERTY TAX RATES**

93. (a) Notwithstanding any other provision of law, except as provided in subdivision (b), no local agency, school district, county superintendent of schools, or community college district shall levy an ad valorem property tax, other than that amount which is equal to the amount needed to make annual payments for the interest and principal on general obligation bonds or other indebtedness approved by the voters prior to July 1, 1978 or the amount levied pursuant to Part 10 (commencing with Section 15000) of Division 1 and Sections 39308, 39311, 81338, and 81341 of the Education Code. In determining the tax rate required for the purposes specified in this subdivision, the amount of the levy shall be increased to compensate for any allocation and payment of tax revenues required pursuant to subdivision (b) of Section 33670 and subdivision (d) of Section 33675 of the Health and Safety Code.

(b) A county shall levy an ad valorem property tax on taxable assessed value at a rate equal to four dollars (\$4) per one hundred

dollars (\$100) of assessed value. The revenue from such tax shall be distributed, subject to the allocation and payment as provided in subdivision (d) of Section 33675 of the Health and Safety Code, to local agencies, school districts, county superintendents of schools, and community college districts in accordance with the provisions of the Government Code.

SEC. 1.7. The heading of Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of the Revenue and Taxation Code is amended to read:

### CHAPTER 3. REIMBURSEMENT FOR COSTS MANDATED BY THE STATE

SEC. 2. Section 2205 of the Revenue and Taxation Code is amended to read:

2205. "Costs mandated by the courts" means any increased costs incurred by a local agency or school district in order to comply with a final court order issued after January 1, 1973, or with a final court order issued prior to July 1, 1972, if the costs incurred by a local agency or school district as a result thereof are not incurred until after June 30, 1973. "Costs mandated by the courts" do not include (i) costs incurred as a result of a judgment in an eminent domain or condemnation proceeding, (ii) costs incurred in order to comply with a final court order mandating the specific performance, or awarding damages as a result of nonperformance, of any contract or agreement entered into after January 1, 1973, and (iii) costs incurred as a result of a final court order which requires a local agency or school district to comply with a state-mandated program or service enacted after January 1, 1973, which the court has determined that the local agency or school district has failed to comply with prior to such order.

SEC. 3. Section 2206 of the Revenue and Taxation Code is amended to read:

2206. "Costs mandated by the federal government" means any increased costs mandated specifically by the federal government upon a local agency or school district after January 1, 1973, in order to comply with requirements of federal statute or regulation. "Costs mandated by the federal government" includes costs resulting from enactment of a state law or regulation where failure to enact such law or regulation to meet specific federal program or service requirements would result in substantial monetary penalties or loss of funds to public or private persons in the state. "Costs mandated by the federal government" does not include costs which are specifically reimbursed or funded by the federal or state government or programs or services which may be implemented at the option of the state, local agency, or school district.

SEC. 4. Section 2207 of the Revenue and Taxation Code is amended to read:

2207. "Costs mandated by the state" means any increased costs

which a local agency is required to incur as a result of the following:

(a) Any law enacted after January 1, 1973, which mandates a new program or an increased level of service of an existing program;

(b) Any executive order issued after January 1, 1973, which mandates a new program;

(c) Any executive order issued after January 1, 1973, which (i) implements or interprets a state statute and (ii), by such implementation or interpretation, increases program levels above the levels required prior to January 1, 1973.

(d) Any statute enacted after January 1, 1973, or executive order issued after January 1, 1973, which implements or interprets a federal statute or regulation and, by such implementation or interpretation, increases program or service levels above the levels required by such federal statute or regulation.

(e) Any statute enacted after January 1, 1973, or executive order issued after January 1, 1973, which implements or interprets a statute or amendment adopted or enacted pursuant to the approval of a statewide ballot measure by the voters and, by such implementation or interpretation, increases program or service levels above the levels required by such ballot measure.

(f) Any statute enacted after January 1, 1973, or executive order issued after January 1, 1973, which (i) removes an option previously available to local agencies and thereby increases program or service levels or (ii) prohibits a specific activity which results in the local agencies using a more costly alternative to provide a mandated program or service.

(g) Any statute enacted after January 1, 1973, or executive order issued after January 1, 1973, which requires that an existing program or service be provided in a shorter time period and thereby increases the costs of such program or service.

(h) Any statute enacted after January 1, 1973, or executive order issued after January 1, 1973, which adds new requirements to an existing optional program or service and thereby increases the cost of such program or service if the local agencies have no reasonable alternatives other than to continue the optional program.

SEC. 5. Section 2207.5 of the Revenue and Taxation Code is amended to read:

2207.5. "Costs mandated by the state" means any increased costs which a school district is required to incur as a result of the following:

(a) Any law enacted after January 1, 1973, which mandates a new program or an increased level of service of an existing program;

(b) Any executive order issued after January 1, 1978, which mandates a new program;

(c) Any executive order issued after January 1, 1978, which (i) implements or interprets a state statute and (ii), by such implementation or interpretation, increases program levels above the levels required prior to January 1, 1978.

(d) Any statute enacted after January 1, 1973, or executive order issued after January 1, 1978, which implements or interprets a federal

statute or regulation and, by such implementation or interpretation, increases program or service levels above the levels required by such federal statute or regulation.

(e) Any statute enacted after January 1, 1973, or executive order issued after January 1, 1978, which implements or interprets a statute or amendment adopted or enacted pursuant to the approval of a statewide ballot measure by the voters and, by such implementation or interpretation, increases program or service levels above the levels required by such ballot measure.

(f) Any statute enacted after January 1, 1973, or executive order issued after January 1, 1978, which (i) removes an option previously available to school districts and thereby increases program or service levels or (ii) prohibits a specific activity which results in the school districts using a more costly alternative to provide a mandated program or service.

(g) Any statute enacted after January 1, 1973, or executive order issued after January 1, 1978, which requires that an existing program or service be provided in a shorter time period and thereby increases the costs of such program or service.

(h) Any statute enacted after January 1, 1973, or executive order issued after January 1, 1978, which adds new requirements to an existing optional program or service and thereby increases the cost of such program or service if the school districts have no reasonable alternatives other than to continue the optional program.

SEC. 6. Section 2208.7 is added to the Revenue and Taxation Code, to read:

2208.7. "Board" means the five-member State Board of Control described in Section 2251.

SEC. 7. Section 2218 is added to the Revenue and Taxation Code, to read:

2218. For the purposes of this chapter, "claim" shall include three types of claims which local agencies and school districts may file with the state:

(a) "Test claim" or "claim of first impression" means the first claim filed with the State Board of Control alleging that a particular statute or executive order imposes a mandated cost on such local agency or school district.

(b) "Estimated claim" means a claim filed with the Controller, during the fiscal year in which the mandated costs are to be incurred by the local agency or school district, against an appropriation made to the Controller for the purpose of paying such estimated claims.

(c) "Reimbursement claim" is a claim for costs incurred by a local agency or school district filed with the Controller against an appropriation made for the purpose of paying such claims.

SEC. 7.3. Section 2225 of the Revenue and Taxation Code is repealed.

SEC. 7.5. Section 2226 of the Revenue and Taxation Code is repealed.

SEC. 8. Section 2231 of the Revenue and Taxation Code is

amended to read:

2231. (a) The state shall reimburse each local agency for all "costs mandated by the state", as defined in Section 2207. The state shall reimburse each school district only for those "costs mandated by the state" as defined in Section 2207.5.

(b) For the initial fiscal year during which such costs are incurred reimbursement funds shall be provided as follows: (1) any statute mandating such costs shall provide an appropriation therefor, and (2) any executive order mandating such costs shall be accompanied by a bill appropriating the funds therefor, or, alternatively, an appropriation for such funds shall be included in the Budget Bill for the next following fiscal year, and such executive order shall cite the appropriate Budget Bill item or other bill as the source from which the Controller may pay the claims of local agencies and school districts.

In subsequent fiscal years appropriations for such costs shall be included in the State Budget and in the Budget Bill. In addition, appropriations to reimburse local agencies and school districts for continuing costs resulting from chaptered bills or executive orders for which claims have been awarded pursuant to subdivision (b), (c), or (d) of Section 2253 shall be included in the State Budget and in the Budget Bill subsequent to the enactment of the local government claims bill pursuant to Section 2255 which includes the amounts awarded relating to such chaptered bills or executive orders.

(c) The amount appropriated for such purposes shall be appropriated to the Controller for disbursement.

(d) The Controller shall disburse reimbursement funds to local agencies or school districts if the costs of such mandates are not payable to state agencies, or to state agencies who would otherwise collect the costs of such mandates from local agencies or school districts in the form of fees, premiums, or payments. When disbursing reimbursement funds to local agencies or school districts, the Controller shall disburse them as follows:

(1) For the initial fiscal year during which such costs will be incurred, each local agency or school district to which the mandate is applicable shall submit to the Controller, within 45 days of the operative date of the mandate, or, if the board is requested to do so pursuant to Section 2253.4, within 45 days after the board reviews the parameters and guidelines for reimbursement issued by the Controller, whichever is later, a claim for payment of its estimated costs required by such mandate for the current fiscal year. If the local agency or school district does not submit such claim within the 45-day period, it may submit its claim for reimbursement for costs incurred in such initial fiscal year concurrent with its submission of the claim described in paragraph 2 of this subdivision without any imposition of a late penalty pursuant to Section 2238. The Controller shall pay such claims from the funds appropriated therefor, provided that he (i) may audit the records of any local agency or school district to verify the actual amount of the mandated costs, and

(ii) may reduce any claim which he determines is excessive or unreasonable. The amendments to this paragraph during 1978 shall apply to all claims submitted on or after January 1, 1978.

In the case of unfunded mandates when funds are appropriated to the Controller to pay for such costs, claims for initial year costs, and subsequent years for which costs have been incurred prior to the enactment of the claims bill, shall be filed within 120 days from the date of notification by the Controller of the enactment of the claims bill. Such claims shall be based upon parameters and guidelines issued by the board and as approved by the Legislature. The Controller shall promptly notify the relevant local agencies or school districts subsequent to enactment of such claims bill of the right to file such claims.

(2) In subsequent fiscal years each local agency or school district shall submit such claims to the Controller by October 31. The Controller shall pay such claims from funds appropriated therefor, provided that he (i) may audit the records of any local agency or school district to verify the actual amount of the mandated costs, (ii) may reduce any claim, which he determines is excessive or unreasonable, and (iii) shall adjust the payment to correct for any underpayments or overpayments which occurred in the previous fiscal year.

(3) Prior to payment of claims, the Controller shall only require information from local agencies or school districts that is actually necessary to perform such audits.

SEC. 9. Section 2232 of the Revenue and Taxation Code is amended to read:

2232. Any funds received by a local agency or school district pursuant to the provisions of this chapter may be used for any public purpose.

SEC. 10. Section 2233 of the Revenue and Taxation Code is amended to read:

2233. No claim shall be made pursuant to Sections 2229 and 2231, nor shall any payment be made on claims submitted pursuant to Sections 2229 and 2231, unless such claims exceed two hundred dollars (\$200), provided that a county superintendent of schools or county may submit a combined claim on behalf of direct service districts or special districts within their county if the combined claim exceeds two hundred dollars (\$200) even if the individual direct service or special district's claims do not each exceed two hundred dollars (\$200). The county superintendent of schools or county shall determine if the submission of such combined claim is economically feasible and shall be responsible for disbursing such funds to each direct service or special district. Such combined claims may be filed only when the superintendent of schools or county is the fiscal agent for such districts. All subsequent claims based upon the same mandate shall only be filed in such combined form.

SEC. 11. Section 2234 of the Revenue and Taxation Code is amended to read:

2234. If a local agency or a school district, at its option, has been incurring costs which are subsequently mandated by the state, the state shall reimburse the local agency or school district for such costs incurred after the operative date of such mandate.

SEC. 11.3. Section 2237 of the Revenue and Taxation Code is repealed.

SEC. 11.5. Section 2237.1 of the Revenue and Taxation Code is repealed.

SEC. 12. Section 2238 of the Revenue and Taxation Code is amended to read:

2238. (a) If a local agency or school district submits an otherwise valid claim to the Controller after the applicable deadline specified in subdivision (d) of Section 2231, the Controller shall pay such claim in an amount equal to 80 percent of the amount which would have been allowed had the claim been timely filed. In no case shall a claim be paid which is submitted more than one year after the applicable deadline specified in subdivision (d) of Section 2231. Claims which were filed by the deadline specified in subdivision (d) of such section shall be paid in full before payments are made on claims filed after the deadline. In the event the amount appropriated to the Controller for reimbursement purposes is not sufficient to pay such claims approved by the Controller, the Controller shall prorate such claims in proportion to the dollar amount of approved claims filed after the deadline and shall report to the State Board of Control or the Legislature in the same manner as described in Section 2236 in order to assure appropriation of funds sufficient to pay such claims.

(b) Notwithstanding the provisions of subdivision (a), any otherwise valid claim filed with the Controller's office on or before October 31, 1979, for costs incurred in the 1977-78 and prior fiscal years, shall be considered under this section and shall be paid at 80 percent or the lesser prorated amount after payment of the timely filed claims.

SEC. 13. Section 2246.1 is added to the Revenue and Taxation Code, to read:

2246.1. On November 30 of each year the Legislative Analyst shall submit a report to the Legislature regarding each unfunded statutory or regulatory mandate for which claims have been approved by the Legislature pursuant to a claims bill during the preceding fiscal year. The initial report, to be submitted by November 30, 1981, shall cover all unfunded mandates found by the board since January 1, 1978, for which claims have been approved by the Legislature. The Legislative Analyst shall review each such statute or regulation in light of its estimated future costs recoverable through the claims process and recommend, in each case, whether the Legislature should reconsider its original enactment of such statute or the state agency should reconsider its adoption of the regulation to repeal, modify, or make permissive its provisions. The Legislative Analyst shall submit the report to the Joint Legislative Budget Committee, the chairs of the fiscal committees, and the

chairs of the policy committees in each house which have jurisdiction over the subject matter of such statutes or regulations.

SEC. 14. Section 2252 of the Revenue and Taxation Code is amended to read:

2252. The Board of Control shall adopt procedures for receiving claims pursuant to this article and for providing a hearing on such claims. Such procedures shall fall within the scope of subdivision (b) of Section 13920 of the Government Code, except that such procedures shall be adopted by a majority vote of the board membership prescribed by Section 2251. The hearing procedure shall provide for presentation of evidence by the claimant and by the Department of Finance and any other affected department or agency. A vote of a majority of the board members shall be required to sustain a claim submitted pursuant to this article. Hearing of a claim may be postponed at the request of the claimant, without prejudice. A claim which fails to obtain the approval of a majority of board members, but which is not rejected by a majority of the board members, may be resubmitted at a later date by the claimant.

SEC. 15. Section 2253.2 of the Revenue and Taxation Code is amended to read:

2253.2. (a) The Board of Control shall, within ten days after receipt of the first claim based upon each chaptered bill or executive order as described in subdivisions (b) and (d) of Section 2253, set a date for a public hearing on such claim within a reasonable time. The claim may be based upon estimated costs that a local agency or school district may incur as a result of the mandate and may be filed at any time after a bill is chaptered or executive order adopted, but prior to its operative date. Such claims shall be submitted in a form prescribed by the board. After a hearing in which the claimant and any other interested organization or individual may participate, the board, if it determines a cost was mandated, shall adopt parameters and guidelines for reimbursement of any claims relating to such bill or executive order. A local agency, school district, and the state may file a claim or request with the board to amend, modify, or supplement such parameters or guidelines. The board may, after due public notice and hearing, amend, modify, or supplement such parameters and guidelines.

The board shall include in its report to the Legislature required under Section 2255 the number of mandates found pursuant to this section and shall include an estimate of the statewide costs to be incurred by local agencies or school districts affected by the mandate. Such statewide estimate shall be approved by the board after receiving and reviewing recommendations from the Department of Finance and any other interested parties. The local government claims bill, specified in Section 2255, at the time of its introduction shall provide for an appropriation sufficient to pay future claims based upon estimated statewide costs resulting from all mandates found by the board.

(b) The Board of Control shall not find a reimbursable mandate,

pursuant to either Section 2250 of this code or to Section 905.2 of the Government Code, in any claim submitted by a local agency or school district, pursuant to Section 2218(a) of the Revenue and Taxation Code, if, after a hearing, the board finds that:

(1) The claim is submitted by a local agency or school district which requested legislative authority for that local agency or school district to implement the program specified in the chaptered bill or executive order, and that chaptered bill or executive order imposes costs upon that local agency or school district requesting such legislative authority. For purposes of this paragraph, a resolution from the governing body or a letter from a delegated representative of the governing body of a local agency or school district which requests authorization for that local agency or school district to implement a given program shall constitute a request within the meaning of this paragraph, except that a request to implement an existing reimbursable mandate in an alternative manner shall not constitute a request; or

(2) The chaptered bill or executive order affirmed for the state that which had been declared existing law or regulation by action of the courts; or

(3) The chaptered bill or executive order implemented a federal law or regulation and resulted in "costs mandated by the federal government", as defined in Section 2206, unless such chaptered bill or executive order mandates costs which exceed the mandate in such law or regulation; or

(4) The local agency or school district has the authority to levy service charges, fees or assessments sufficient to pay for the mandated program or level of service.

(5) The chaptered bill or executive order provides for offsetting savings to local agencies or school districts which result in no net costs to such local agencies or school districts.

(c) The Board of Control shall not consider, pursuant to either Section 2250 of this code or to Section 905.2 of the Government Code, any claims submitted by a local agency or school district if:

(1) The chaptered bill or executive order imposed duties which were expressly included in a ballot measure approved by the voters in a statewide election; or

(2) The chaptered bill created a new crime or infraction, eliminated a crime or infraction, or changed the penalty for a crime or infraction, but only for that portion of the chaptered bill relating directly to the enforcement of the crime or infraction; or

(3) The claim is for two hundred dollars (\$200) or less.

(d) The Legislature declares that the purpose of this section is to encourage local agencies and school districts to file claims for reimbursement with much more advance knowledge of the extent of possible reimbursement and to provide for a more expeditious and efficient claims process.

SEC. 16. Section 2253.3 is added to the Revenue and Taxation Code, to read:

2253.3. In adopting parameters and guidelines pursuant to Section 2253.2, the Board of Control may recommend an allocation formula or uniform allowance based upon actual costs which would provide for reimbursement of each local agency or school district of a specified amount each year. Such recommendations shall be subject to review and approval by the Legislature and Governor in the local government claims bills.

SEC. 17. Section 2253.4 is added to the Revenue and Taxation Code, to read:

2253.4. The board, upon request of a local agency or school district, shall review the claiming instructions issued by the Controller for reimbursement of mandated costs, and may modify such instructions with regard to the inclusion or exclusion of specific cost items.

SEC. 18. Section 2253.8 of the Revenue and Taxation Code is repealed.

SEC. 19. Section 2253.8 is added to the Revenue and Taxation Code, to read:

2253.8. The parameters and guidelines prepared by the Board of Control shall specify the fiscal years for which claims may be filed.

The period prescribed in the parameters and guidelines shall not provide for reimbursement of costs incurred in fiscal years preceding the eligibility date established by the date of submission of the first or "test" claim on a specified statute or executive order. The test claim shall be submitted on or before October 31 following a fiscal year in order to establish eligibility for that fiscal year.

SEC. 20. Section 2255 of the Revenue and Taxation Code is amended to read:

2255. At least twice each calendar year the Board of Control shall report to the Legislature on the number of mandates it has found and the estimated statewide costs of such mandates. Such report shall identify the statewide costs estimated for each such mandate and the reasons for recommending reimbursement. Such report may be included in the report required by Section 13928 of the Government Code. Immediately on receipt of such report a local government claims bill shall be introduced in the Legislature. The local government claims bill, at the time of its introduction, shall provide for an appropriation sufficient to pay the estimated costs of such mandates, pursuant to the provisions of this article.

SEC. 21. Section 2255.1 of the Revenue and Taxation Code is amended to read:

2255.1. Notwithstanding Section 2255, the Board of Control may request that separate local government claims bills be introduced for any mandates for which the estimated statewide costs amount to at least three million dollars (\$3,000,000). In addition, separate appropriation bills may be introduced to appropriate funds sufficient to pay such claims, in which case the appropriate local government claims bill shall be amended to exclude such claims.

## CHAPTER 1257

An act to add Section 17214.6 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 28, 1980. Filed with Secretary of State September 29, 1980.]

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

SECTION 1. Section 17214.6 is added to the Revenue and Taxation Code, to read:

17214.6. (a) Transportation expenses which are necessarily incurred in rendering donated services for an entity described in subdivision (a) or (b) of Section 17214 shall be treated as a contribution under Section 17214 to the extent of the taxpayer's reasonable out-of-pocket expenses or to the extent of the miles necessarily traveled in the taxpayer's vehicle as multiplied by ten cents (\$0.10).

(b) The deduction authorized by this section shall only apply to taxpayers who donate their services as individuals and not to taxpayers who donate services as representatives of a business entity.

(c) If the federal government authorizes a deduction for transportation expenses incurred in rendering donated services at rates which exceed the rate allowed in subdivision (a), the rate authorized in subdivision (a) shall be increased to conform to the rate allowed under federal law.

SEC. 2. 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 be applied in the computation of taxes for taxable years beginning on or after the first day of the calendar year in which this act becomes effective provided the effective date is more than 90 days prior to the last day of the calendar year. If the effective date is 90 days or less prior to the last day of the calendar year, the provisions of this act shall apply in the computation of taxes for taxable years beginning on or after the first day of the calendar year following the effective date. This act shall be repealed effective January 1 of the year five years subsequent to the first taxable year for which the act is effective.

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CHAPTER 1258

An act to add and repeal Chapter 5 (commencing with Section 8800) to Part 6 of the Education Code, relating to education, and making an appropriation therefor.

[Approved by Governor September 28, 1980. Filed with  
Secretary of State September 29, 1980.]

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

SECTION 1. Chapter 5 (commencing with Section 8800) is added to Part 6 of the Education Code, to read:

#### CHAPTER 5. EXEMPLARY ARTS EDUCATION PROGRAMS

8800. The Legislature finds and declares that there is a need to integrate the arts into the school curriculum as a means of improving the quality of education offered in California public schools and as a means of reinforcing basic skills.

The Legislature further finds and declares that pupils need a balanced educational program which includes the arts as basic intellectual disciplines used as a means of promoting self-worth of the student, motivation for active participation in the educational process, and a positive attitude toward school and community.

The Legislature recognizes that scientific research has indicated that an integrated approach to arts education can serve the above needs.

The Legislature further finds and declares that arts education should include development of skills in art disciplines.

The Legislature further recognizes the decline in arts instruction and support services for pupils during the last decade and declares that the development of exemplary arts education programs is a means of determining programs which may be adapted and offered on a statewide basis.

The objective of the exemplary programs is to encourage and assist in the establishment, conduct, or improvement of educational programs including basic skills in which the arts as basic intellectual disciplines are integrated into the educational program of elementary and secondary schools.

8801. As used in this chapter:

(a) "Arts" includes, but is not limited to, dance, drama, music, folk art, creative writing, architecture and allied fields, visual arts including painting, sculpture, photography, graphic arts and craft arts, industrial design, costume and fashion design, film, and video.

(b) "Exemplary arts education program" means a program in which the arts are an integral part of the school curriculum and which (1) strengthens art disciplines currently part of the curriculum, (2) utilizes the arts as a means of reinforcing basic skills and other areas of the curriculum, (3) develops skills in arts disciplines, (4) utilizes community arts resources, and (5) provides staff development.

8802. (a) A school district or county office of education may apply for a grant of up to fifty thousand dollars (\$50,000) per year, for a period not to exceed two years, for the development,

implementation, and review of an exemplary arts education program. Each application shall include, but not be limited to, the following:

(1) A plan for offering the proposed program which meets the criteria established by the California Arts Council and the Department of Education, with the advice and consent of the advisory committee established pursuant to subdivision (b). Such plan shall contain and allocate staff resources for a needs assessment, an implementation procedure, an evaluation component in which the district or county office measures the goals of the proposed program, and a procedure to establish a community advisory committee which shall be a component of each exemplary arts education program.

(2) Provision for the utilization of an evaluator who shall participate in the proposed program from its inception. If the project is funded, pursuant to the provisions of Section 8803, the evaluator shall provide the California Arts Council, the Department of Education, and the state advisory committee, established pursuant to subdivision (b), with periodic evaluation of the proposed program and with a final evaluation as soon as practical following completion of the proposed program.

(3) Provision that not more than 3 percent of the grant funds will be used for the purposes of administration and evaluation of the proposed program.

(4) Provision that no grant funds received will be used to pay salaries of personnel or other costs of arts education programs being provided by the district or county office at the time of the receipt of such grant funds, or to otherwise supplant federal, state, or local funds being expended on arts education programs by the district or county office.

(5) Provision that the instructional component of the plan specified in paragraph (1) is designed to provide sequential and ongoing instruction which shall assist in preparing pupils for participation in artists-in-schools programs and shall not endeavor to supplant such artists-in-schools programs.

(6) Provision for a description of the adaptability of the program for implementation in other school districts.

(b) The California Arts Council and the Department of Education shall, in cooperation with the State Alliance for Arts Education Committee, establish a 15-member advisory committee to assist in the administration of this program. Such advisory committee shall:

(1) Be broadly representative of the arts and educational leadership in the state.

(2) Include members of associations or organizations representing arts educators, school administrators, visual and performing artists, arts institutions, parents, and community arts.

(3) Serve without compensation or reimbursement of expenses from funds appropriated by Section 8803.

(4) Assist the California Arts Council and the Department of

Education in the development of criteria pursuant to paragraph (1) of subdivision (a). Insofar as possible, these criteria shall include efforts to encourage geographic and urban-rural balance in programs which are funded.

(5) Assist the California Arts Council and the Department of Education in the review and prioritization of applications pursuant to subdivision (c).

(6) Assist the California Arts Council and the Department of Education in the preparation of a report to the Legislature pursuant to the provisions of Section 8804.

(c) The California Arts Council and the Department of Education, with the assistance of the advisory committee established pursuant to subdivision (b) shall review all applications submitted pursuant to subdivision (a). Following due consideration, the California Arts Council and the Department of Education shall rank and develop a list of the applications in order of priority from most deserving to least deserving of the receipt of grant funds. In the process of review, the California Arts Council and the Department of Education may recommend one or more modifications of an application to the district or county office submitting such application. Such modifications of the application shall only be made with the consent of the district or county office.

8803. (a) There is hereby appropriated from the General Fund to the California Arts Council the sum of seven hundred fifty thousand dollars (\$750,000) each fiscal year, for the 1981-82, 1982-83, and 1983-84 fiscal years, to be allocated as grant awards to school districts and county offices of education in accordance with the approved list of applications developed pursuant to subdivision (c) of Section 8802, except that twenty-five thousand dollars (\$25,000) of the appropriation for each of the 1981-82 and 1982-83 fiscal years may be allocated for the independent evaluation required by Section 8804.

(b) Projects may be approved for funding for a one-fiscal-year or two-fiscal-year period. No new projects shall be approved for funding for the 1984-85 fiscal year. However, projects approved for funding for a two-year period in accordance with the provisions of subdivisions (a) and (c) of Section 8802, for which the first year of funding is the 1983-84 fiscal year shall be funded for a second year in the 1984-85 fiscal year, if funds are available.

8804. The Department of Education, with the approval of the California Arts Council, the Legislative Analyst, and the Department of Finance shall contract for an independent evaluation of the exemplary arts education programs established pursuant to this chapter. In conducting the evaluation, the contractor shall consider the evaluations submitted pursuant to paragraph (2) of subdivision (a) of Section 8802, shall examine the benefits, costs and impact of exemplary arts education programs, the potential for replication in other districts and permanent assimilation of the program within funded districts, and shall provide information on these issues and

make appropriate policy recommendations to the Legislature on or before December 31, 1983.

8805. It is the intent of the Legislature that no portion of the funds specified in Section 8803 be used by the California Arts Council or the Department of Education for administrative costs.

8806. This chapter shall remain in effect only until June 30, 1985, and as of such date is repealed, unless a later enacted statute, which is chaptered before June 30, 1985, deletes or extends such date.

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## CHAPTER 1259

An act to amend Section 1808.4 of the Vehicle Code, relating to records.

[Approved by Governor September 28, 1980. Filed with  
Secretary of State September 29, 1980 ]

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

SECTION 1. Section 1808.4 of the Vehicle Code is amended to read:

1808.4. The home address of any Member of the Legislature; any judge or court commissioner; any district attorney; any probation or parole officer; any sheriff, undersheriff, or deputy sheriff of a county, regularly employed and paid as such; any policeman of a city; any member of the California Highway Patrol; any member of the California State Police Division; any member of the University of California Police Department appointed pursuant to Section 92600 of the Education Code and the California State University and Colleges Police Department appointed pursuant to Section 89560 of the Education Code; peace officer employees of the Department of Justice, the Department of Corrections, and the Department of the Youth Authority appearing in any record of the department is confidential and shall not be disclosed to any person, except a court, a law enforcement agency, the State Board of Equalization, or any governmental agency to which, under any provision of law, information is required to be furnished from records maintained by the department, if the public officer or employee requests confidentiality of that information. Any record of the department containing such a confidential home address shall be open to public inspection, as provided in Section 1808, if the address is completely obliterated or otherwise removed from the record. The department shall tell any person who requests a confidential home address what law enforcement agency or department the individual whose address was requested works for or the court at which the judge or court commissioner presides.

CHAPTER 1260

An act to repeal Sections 1760, 1760.6, 1761, 1765, 1767, and 1769 of, and to add Division 2.5 (commencing with Section 1797) to, the Health and Safety Code, relating to emergency medical services, and making an appropriation therefor.

[Approved by Governor September 27, 1980. Filed with Secretary of State September 29, 1980.]

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

SECTION 1. Section 1760 of the Health and Safety Code is repealed.

SEC. 2. Section 1760.6 of the Health and Safety Code is repealed.

SEC. 3. Section 1761 of the Health and Safety Code is repealed.

SEC. 4. Section 1765 of the Health and Safety Code is repealed.

SEC. 5. Section 1767 of the Health and Safety Code is repealed.

SEC. 6. Section 1769 of the Health and Safety Code is repealed.

SEC. 7. Division 2.5 (commencing with Section 1797) is added to the Health and Safety Code, to read:

DIVISION 2.5. EMERGENCY MEDICAL SERVICES

PART 1. EMERGENCY MEDICAL SERVICES AND EMERGENCY MEDICAL CARE PERSONNEL

CHAPTER 1. GENERAL PROVISIONS

1797. This part shall be known and may be cited as the Emergency Medical Services System and the Prehospital Emergency Medical Care Personnel Act.

1797.1. The Legislature finds and declares that it is the intent of this act to provide the state with a statewide system for emergency medical services by establishing within the Health and Welfare Agency the Emergency Medical Service Authority, which is responsible for the coordination and integration of all state activities concerning emergency medical services.

1797.2. It is the intent of the Legislature to maintain and promote the development of EMT-P paramedic programs where appropriate throughout the state and to initiate EMT-II limited advanced life support programs only where geography, population density, and resources would not make the establishment of a paramedic program feasible.

1797.3. The provisions of this part do not preclude the adoption of additional training standards for EMT-II and EMT-P by local EMS agencies.

1797.4. In the event of any conflict between the provisions of this part and Chapter 9 (commencing with Section 1750), the provisions

of this part shall prevail.

## CHAPTER 2. DEFINITIONS

1797.50. Unless the context otherwise requires, the definitions contained in this chapter shall govern the provisions of this part.

1797.52. "Advanced life support" means special services designed to provide definitive prehospital emergency medical care including, but not limited to, cardiopulmonary resuscitation, cardiac monitoring, cardiac defibrillation, advanced airway management, intravenous therapy, administration of specified drugs and other medicinal preparations, and other specified techniques and procedures administered by authorized personnel under the direct supervision of a base station hospital.

1797.54. "Authority" means the Emergency Medical Service Authority established by this part.

1797.56. "Authorized registered nurse" means a registered nurse who meets the qualifications specified in the Wedworth-Townsend Paramedic Act, Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2.

1797.58. "Base station hospital" or "base station hospitals" means a hospital or hospitals which, upon designation by the local EMS agency and with a written contractual agreement with the local EMS agency, is responsible for directing the advanced life support system or limited advanced life support system assigned to it or them by the local EMS agency.

1797.60. "Basic life support" means emergency first aid and cardiopulmonary resuscitation procedures which, as a minimum, include recognizing respiratory and cardiac arrest and starting the proper application of cardiopulmonary resuscitation to maintain life without invasive techniques until the victim may be transported or until advanced life support is available.

1797.62. "Certificate" means a specific document issued to an individual denoting competence in the named area of prehospital service.

1797.64. "Commission" means the Commission on Emergency Medical Services created pursuant to the provisions of Section 1799.

1797.66. "Competency based curriculum" means a curriculum in which specific objectives are defined for each of the separate skills taught in training programs with integrated didactic and practical instruction and successful completion of an examination demonstrating mastery of every skill.

1797.68. "Director" means the Director of the Emergency Medical Service Authority.

1797.70. "Emergency" means a condition or situation in which an individual has a need for immediate medical attention, or where the potential for such need is perceived by emergency medical personnel or a public safety agency.

1797.72. "Emergency medical services" means the services

utilized in responding to a medical emergency.

1797.74. "Emergency medical services area" or "EMS area" means the geographical area of a county or a health service area previously designated pursuant to the National Health Planning and Resources Development Act of 1974 (42 U.S.C. 300k et seq., P.L. 93-641).

1797.76. "Emergency medical service plan" means a plan for the delivery of emergency medical services consistent with state guidelines addressing the components listed in Section 1797.103.

1797.78. "Emergency medical services system" or "system" means a specially organized arrangement which provides for the personnel, facilities, and equipment for the effective and coordinated delivery in an EMS area of medical care services under emergency conditions.

1797.80. "Emergency Medical Technician-I" or "EMT-I" means an individual trained in all facets of basic life support according to standards prescribed by this part and who has a valid certificate issued pursuant to this part. This definition shall include, but not be limited to, EMT-I (FS) and EMT-I-A.

1797.82. "Emergency Medical Technician-II" or "EMT-II" means an EMT-I with additional training in limited advanced life support according to standards prescribed by this part and who has a valid certificate issued pursuant to this part.

1797.84. "Emergency Medical Technician-Paramedic" or "EMT-P" or "paramedic" means an individual who is a mobile intensive care paramedic, as defined in Section 1481, and whose scope of practice to provide advanced life support is according to standards prescribed by this part and who has a valid certificate issued pursuant to this part.

1797.86. "Health systems agency" means a health systems agency as defined in subsection (a) of Section 300(1)-1 of Title 42 of the United States Code.

1797.88. "Hospital" means an acute care hospital licensed under Chapter 2 (commencing with Section 1250) of Division 2, with a permit for basic emergency service.

1797.90. "Medical control" means the medical management of the emergency medical services system pursuant to the provisions of Chapter 5 (commencing with Section 1798).

1797.92. "Limited advanced life support" means special service designed to provide prehospital emergency medical care limited to techniques and procedures that exceed basic life support but are less than advanced life support and are those procedures specified pursuant to Section 1797.171.

1797.94. "Local EMS agency" means the agency, department, or office having primary responsibility for administration of emergency medical services in a county and which is designated pursuant to Chapter 4 (commencing with Section 1797.200).

## CHAPTER 3. STATE ADMINISTRATION

## Article 1. The Emergency Medical Services Authority

1797.100. There is in the state government in the Health and Welfare Agency, the Emergency Medical Service Authority.

1797.101. The Emergency Medical Service Authority shall be headed by the Director of the Emergency Medical Service Authority who shall be appointed by the Secretary of the Health and Welfare Agency. The director shall be a physician and surgeon licensed in California pursuant to the provisions of Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code, and who has substantial experience in the practice of emergency medicine.

1797.102. The authority, utilizing regional and local information, shall assess each EMS area or the system's service area for the purpose of determining the need for additional emergency medical services, coordination of emergency medical services, and the effectiveness of emergency medical services.

1797.103. The authority shall develop planning and implementation guidelines for emergency medical services systems which address the following components:

- (a) Manpower and training.
- (b) Communications.
- (c) Transportation.
- (d) Assessment of hospitals and critical care centers.
- (e) System organization and management.
- (f) Data collection and evaluation.
- (g) Public information and education.
- (h) Disaster response.

1797.104. The authority shall provide technical assistance to existing agencies, counties, and cities for the purpose of developing the components of emergency medical services systems.

1797.105. (a) The authority shall receive plans for the implementation of emergency medical services from EMS agencies.

(b) After July 1, 1982, a local EMS agency may implement a local plan developed pursuant to Section 1797.250 unless the authority determines such plan does not effectively meet the needs of residents and is not consistent with coordinating activities in the geographical area served.

(c) A local EMS agency may appeal a determination of the authority pursuant to subdivision (b) to the commission.

(d) In an appeal pursuant to subdivision (c), the commission may sustain the determination of the authority or overrule and permit local implementation of a plan, and the decision of the commission is final.

1797.106. (a) Regulations, standards, and guidelines adopted by the authority and by local EMS agencies pursuant to the provisions of this part shall not prohibit hospitals which contract with group

practice prepayment health care service plans from providing necessary medical services for the members of such plans.

(b) Regulations, standards, and guidelines adopted by the authority and by local EMS agencies pursuant to the provisions of this part shall provide for the transport and transfer of a member of a group practice prepayment health care service plan to a hospital that contracts with the plan when the base station hospital determines that the condition of the member permits such transport or when the condition of the member permits such transfer, except that when the dispatching agency determines that such transport by a transport unit would unreasonably remove the transport unit from the area, the member may be transported to the nearest hospital capable of treating the member.

1797.107. The authority shall adopt, amend, or repeal, after approval by the commission and 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 may be reasonable and proper to carry out the purposes and intent of this part and to enable the authority to exercise the powers and perform the duties conferred upon it by this part not inconsistent with any of the provisions of any statute of this state.

#### Article 2. Recodifications

1797.120. The authority shall draft a recodification of all EMS and EMS-related statutes for the purpose of optimizing patient care, simplification, and economy. The draft shall be presented to the Legislature on or before January 1, 1983.

1797.121. The authority shall report to the Legislature on the effectiveness of the systems provided for in this division on or before January 1, 1984, and annually thereafter, including within this report, systems impact evaluations on death and disability.

#### Article 3. Coordination With Other State Agencies

1797.130. The director shall chair an Interdepartmental Committee on Emergency Medical Services established pursuant to Section 1797.132.

1797.131. The director shall report on the coordination of the budgets and activities of other state agencies as they relate to emergency medical services to the Legislature on or before January 1, 1983, and biennially thereafter.

1797.132. An Interdepartmental Committee on Emergency Medical Services is hereby established. This committee shall advise the authority on the coordination and integration of all state activities concerning emergency medical services. The committee shall include a representative from each of the following state agencies and departments: the Office of Emergency Services, the Department of the California Highway Patrol, the Department of

Motor Vehicles, a representative of the administrator of the California Traffic Safety Program as provided by Chapter 5 (commencing with Section 2900) of Division 2 of the Vehicle Code, the Board of Medical Quality Assurance, the State Department of Health Services, the California Board of Nursing Education and Nurse Registration, the Department of Education, the National Guard, the Office of Statewide Health Planning and Development, the State Fire Marshal, and the California Conference of Local Health Officers.

1797.133. The director may appoint select resource committees of experts and may contract with special medical consultants for assistance in the implementation of this part.

#### Article 4. Medical Disasters

1797.150. In cooperation with the Office of Emergency Services, the authority shall respond to any medical disaster by mobilizing and coordinating emergency medical services mutual aid resources to mitigate health problems.

1797.151. The authority shall coordinate, through local EMS agencies, medical and hospital disaster preparedness with other local, state, and federal agencies and departments having a responsibility relating to disaster response, and shall assist the Office of Emergency Services in the preparation of the emergency medical services component of the State Emergency Plan as defined in Section 8560 of the Government Code.

#### Article 5. Personnel

1797.170. The authority shall establish minimum standards and promulgate regulations for the training and scope of practice for EMT-I. Standards for ambulance personnel shall not be less than the minimum standards established by the United States Department of Transportation. Until such time that new regulations are promulgated under this section, the regulations promulgated pursuant to Section 1760 as it existed prior to its repeal in the 1979-80 Regular Session of the Legislature shall remain in effect. Any individual certified as an EMT-I pursuant to this act shall be recognized as an EMT-I on a statewide basis, and recertification shall be based on statewide standards.

1797.171. The authority shall develop, and after approval of the commission pursuant to Section 1799.50 shall adopt, minimum standards for the training and scope of practice for EMT-II. Until such time as the standards of the authority are developed, approved, and adopted, the following standards shall apply for the training and scope of practice of EMT-II:

(a) EMT-II shall be a currently certified EMT-I with a year of field experience who has had a minimum of 150 hours of additional training.

(b) Notwithstanding any other provision of law, during training and while caring for patients in a participating hospital under the direct supervision of a physician or authorized registered nurse, or while at the scene of a medical emergency and during transport when medical control is maintained by a physician or an authorized registered nurse, an EMT-II may:

- (1) Defibrillate an unconscious, pulseless, nonbreathing patient.
- (2) Perform pulmonary ventilation by use of the esophageal airway.
- (3) Institute intravenous lines in superficial veins.
- (4) Obtain blood for laboratory analysis of blood sugar.
- (5) Administer, utilizing prepackaged products where available, any of the following substances:
  - (A) Five percent dextrose in water.
  - (B) Normal saline or clinically equivalent solution.
  - (C) Fifty percent dextrose.
  - (D) Lidocaine hydrochloride.
  - (E) Atropine sulfate.
  - (F) Epinephrine.
  - (G) Sodium bicarbonate.
  - (H) Naloxone.
  - (I) Furosemide.
  - (J) Syrup of ipecac.
- (6) Apply medical antishock trousers.

1797.172. The authority shall develop, and after the approval of the commission pursuant to Section 1799.50, shall adopt, minimum standards for the training and scope of practice for EMT-P. Until such time as the standards of the authority are developed, approved, and adopted, the training standards shall be as specified in Section 1481.1, and the following standards shall apply for the scope of practice of EMT-P:

- (a) Render rescue, first aid, and resuscitation services.
- (b) Perform cardiopulmonary resuscitation and defibrillation.
- (c) During training and while caring for patients in a participating general acute care hospital under the direct supervision of a physician or registered nurse, or while at the scene of a medical emergency and during transport where voice contact or a telemetered electrocardiogram is monitored by a physician or a certified mobile intensive care nurse where authorized by a physician, and where direct communication is maintained, upon order of such physician or such nurse:
  - (1) Administer intravenous saline, glucose or volume expanding agents or solutions.
  - (2) Perform gastric suction by intubation.
  - (3) Perform pulmonary ventilation by use of esophageal airway or other airway management techniques approved by the county health officer.
  - (4) Obtain blood for laboratory analysis.
  - (5) Apply rotating tourniquets.

(6) Administer parenterally, orally, or topically any of the following classes of drugs or solutions:

- (A) Antiarrhythmic agents.
- (B) Vagolytic agents.
- (C) Chronotropic agents.
- (D) Analgesic agents.
- (E) Alkalinizing agents.
- (F) Vasopressor agents.
- (G) Narcotic antagonists.
- (H) Diuretics.
- (I) Anticonvulsants.
- (J) Ophthalmic agents.
- (K) Oxytocic agents.
- (L) Antihistaminics.
- (M) Bronchodilators.
- (N) Emetics.

(7) Assist in childbirth.

(8) Apply antishock trousers.

(9) Perform any other standard emergency medical treatment practice approved by the county health officer.

(d) In accordance with Chapter 5 (commencing with Section 1798), an EMT-P may initiate the following forms of emergency treatment prior to voice or telemetry contact with a qualified physician or authorized registered nurse:

(1) Administer intravenous saline, glucose, or volume expanding agents or solutions when it is reasonably determined that the patient has sustained cardiac or pulmonary arrest or is in extremes from hypovolemic shock.

(2) Perform pulmonary ventilation by use of airway management techniques approved by the county health officer when it is reasonably determined that a patient has sustained a pulmonary arrest.

(3) Apply antishock trousers when it is reasonably determined that the condition of the patient necessitates such action.

(e) When an EMT-P who, at the scene of an emergency, reasonably determines that voice contact or a telemetered electrocardiogram for monitoring by a physician or authorized registered nurse cannot be established or maintained and that a delay in treatment may jeopardize the life of a patient, and when authorized by policies and procedures approved by the local EMS authority, the EMT-P may initiate any paramedic procedure specified in this section in which such EMT-P has received training until such direct communication may be established and maintained or until the patient is brought to a general acute care hospital.

1797.173. The authority shall assure that all training programs for EMT-I, EMT-II, and EMT-P are located in an approved licensed hospital or an educational institution operated with written agreements with an acute care hospital, including a public safety agency that qualifies as an educational institution, and a training

program has a competency-based curriculum. EMT-I training and testing for fire service personnel may be offered at sites approved by the State Board of Fire Services and training for officers of the California Highway Patrol may be provided at the California Highway Patrol Academy.

1797.174. Training programs approved by the State Department of Health Services and in operation on January 1, 1980, may continue to operate, but shall fully comply with the provisions of this part by January 1, 1982.

1797.175. The authority shall establish the standards for continuing education and competency examination for certification and recertification of all prehospital personnel.

1797.176. The authority shall establish the minimum standards for the policies and procedures necessary for medical control of limited advanced life support and advanced life support activities.

1797.177. No individual shall hold himself or herself out to be an EMT-I, EMT-II, EMT-P, or paramedic unless that individual is currently certified as such by the local EMS agency or other certifying authority.

1797.178. No person or organization shall provide advanced life support or limited advanced life support unless that person or organization is an authorized part of the emergency medical services system of the local EMS agency or of a pilot program operated pursuant to the Wedworth-Townsend Paramedic Act, Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2.

#### CHAPTER 4. LOCAL ADMINISTRATION

##### Article 1. Local EMS Agency

1797.200. Each county may develop an emergency medical services program. Each county developing such a program shall designate a local EMS agency which shall be the county health department, an agency established and operated by the county, an entity with which the county contracts for the purposes of local emergency medical services administration, or a joint powers agency created for the administration of emergency medical services by agreement between counties or cities and counties pursuant to the provisions of Chapter 5 (commencing with Section 6500) of Division 7 of Title 1 of the Government Code.

1797.201. Upon the request of a city or fire district that contracted for or provided, as of June 1, 1980, prehospital emergency medical services, a county shall enter into a written agreement with the city or fire district regarding the provision of prehospital emergency medical services for that city or fire district. Until such time that an agreement is reached, prehospital emergency medical services shall be continued at not less than the existing level, and the administration of prehospital EMS by cities and fire districts presently providing such services shall be retained by those cities and

fire districts, except the level of prehospital EMS may be reduced where the city council, or the governing body of a fire district, pursuant to a public hearing, determines that the reduction is necessary.

Notwithstanding any provision of this section the provisions of Chapter 5 (commencing with Section 1798) shall apply.

1797.202. Every local EMS agency shall have a full or part time licensed physician and surgeon as medical director, as designated by the county or by the joint powers agreement, to provide medical control and to assure medical accountability throughout the planning, implementation and evaluation of the EMS system.

1797.204. The local EMS agency shall plan, implement, and evaluate an emergency medical services system, in accordance with the provisions of this part, consisting of an organized pattern of readiness and response services based on public and private agreements and operational procedures.

1797.206. The county is responsible for implementation of advanced life support systems and limited advanced life support systems and for the monitoring of training programs.

1797.208. The county shall be responsible for determining that the operation of training programs at the EMT-I, EMT-II, and EMT-P levels are in compliance with this part, and shall approve the training programs if they are found to be in compliance with this part. The training program at the California Highway Patrol Academy shall be exempt from the provisions of this section.

1797.210. The county health officer or county designated physician shall issue a certificate to an individual upon proof of satisfactory completion of an approved training program and passage of the examination for competence. The certificate shall be proof of the individual's initial competence to perform at the designated level. The county health officer or county designated physician shall recertify EMT-I's, EMT-II's, and EMT-P's through passage of an examination for competency at least every two years.

1797.212. The county may establish a schedule of fees for certification in an amount sufficient to cover the reasonable cost of administering the certification provisions of this part.

1797.214. A county may require additional training or qualifications which are greater than those provided in this chapter as a condition precedent for certification within such EMS area in an advanced life support or limited advanced life support prehospital care system.

1797.216. Public safety agencies may certify and recertify public safety personnel as EMT-I, and the State Board of Fire Services may certify and recertify fire service personnel as EMT-I, those persons who have completed a program of training approved by the county and passed a competency based examination.

1797.218. Any county may authorize an advanced life support or limited advanced life support program which provides services utilizing EMT-II or EMT-P, or both, for the delivery of emergency

medical care to the sick and injured at the scene of an emergency, during transport to a general acute care hospital, while in the emergency department of a general acute care hospital until care responsibility is assumed by the regular staff of that hospital, and during training within the facilities of a participating general acute care hospital.

1797.220. The local EMS agency, using state minimum standards, shall establish policies and procedures to assure medical control of limited advanced life support and advanced life support personnel.

## Article 2. Local Emergency Medical Services Planning

1797.250. In each designated EMS area, the local EMS agency may develop and submit a plan to the authority for an emergency medical services system according to the guidelines prescribed pursuant to Section 1797.103.

1797.252. The local EMS agency shall, consistent with such plan, coordinate and otherwise facilitate arrangements necessary to develop the emergency medical services system.

1797.254. Local EMS agencies shall annually submit an emergency medical services plan for the EMS area to the affected health systems agency and the authority. The health systems agency shall have 60 days to make recommendations and may request modification of the plan if the plan is not deemed to be in the interest of the consumers to be served, or is not consistent with the overall plan for health care delivery.

1797.256. A local EMS agency may review applications for grants and contracts for federal, state, or private funds concerning emergency medical services or related activities in its EMS area.

## CHAPTER 5. MEDICAL CONTROL

1798. (a) The medical direction and management of an emergency medical services system shall be under the medical control of the medical director of the local EMS agency. This medical control shall be maintained in the following manner:

(1) Prospectively by written medical policies and procedures to provide standards for patient care.

(2) Immediately by direct voice communication between a certified EMT-P or EMT-II and a base station hospital emergency physician or an authorized registered nurse and, in the event of temporary unavailability of voice communications, by utilization by an EMT-P or EMT-II of authorized, written orders and policies established pursuant to Section 1798.4.

(3) Retrospectively by means of medical audit of field care and continuing education.

(b) Such medical control shall be within an EMS system which complies with the minimum standards adopted by the authority, and which is established and implemented by the local EMS agency.

1798.2. The base station hospital shall implement the policies and procedures of the local EMS agency for medical direction of prehospital limited advanced life support personnel and advanced life support personnel.

1798.4. (a) Whenever voice contact with a base station hospital cannot be established and whenever a delay in care would jeopardize the life of the patient, the initiation of limited advanced life support or advanced life support procedures shall be authorized by the written standing orders approved by the medical director of the local EMS agency.

(b) In each instance where limited advanced life support or advanced life support procedures are initiated without voice contact with a base station hospital, immediately upon ability to make voice contact, the EMT-II or EMT-P who has initiated such procedures shall make a verbal report to the base station hospital emergency physician or authorized registered nurse. A written report shall be filed, when possible, immediately upon delivery of the patient to a hospital, but in no case shall the filing of such report be delayed more than 24 hours. Such report shall contain the reason or reasons or suspected reason or reasons the communications equipment failed to function and the emergency medical procedures initiated and maintained, including, but not limited to, evaluation of the patient, treatment decisions, and responses to treatment by the patient. The base station hospital emergency physician shall evaluate this report and forward the report and evaluation to the medical director of the local EMS agency within 72 hours.

## CHAPTER 6. FACILITIES

### Article 1. Base Station Hospitals

1798.100. In administering advanced life support or limited advanced life support, a local EMS agency may designate or contract with hospitals within its area of jurisdiction to be base station hospitals. Hospitals so designated or contracted with as base station hospitals shall provide medical direction of the advanced life support or limited advanced life support for the area defined by the local EMS agency in accordance with policies and procedures established by the local EMS agency pursuant to Section 1798.

1798.102. The base station hospital shall supervise prehospital treatment, triage, and transport, advanced life support or limited advanced life support, and monitor personnel program compliance by direct medical supervision.

1798.104. The base station hospital shall provide, or cause to be provided, EMS prehospital personnel training and continuing education in accordance with local EMS policies and procedures.

## Article 2. Critical Care

1798.150. The authority may establish, in cooperation with affected medical organizations, guidelines for hospital facilities according to critical care capabilities.

## Article 3. Transfer Agreements

1798.170. A local EMS agency may develop triage and transfer protocols to facilitate prompt delivery of patients to appropriate designated facilities within and without its area of jurisdiction.

1798.172. (a) The local EMS agency shall establish guidelines and standards for completion and operation of formal transfer agreements between hospitals with varying levels of care in the area of jurisdiction of the local EMS agency. These guidelines shall include provision for suggested written agreements for the type of patient, necessary initial care treatments, requirements of interhospital care, and associated logistics for transfer, evaluation, and monitoring of the patient.

(b) Notwithstanding the provisions of subdivision (a), and in addition to the provisions of Section 1317, a general acute care hospital licensed under Chapter 2 (commencing with Section 1250) of Division 2 shall not transfer such a person for nonmedical reasons to another health facility unless that other facility receiving the person agrees in advance of the transfer to accept the transfer.

## CHAPTER 7. PENALTIES

1798.200. The county may place on probation any certificate holder or suspend or revoke any certificate issued under the provisions of this part and in the manner provided in this chapter upon any of the following grounds:

(a) Fraud in the procurement of any certification under this part.  
(b) Gross negligence.  
(c) Repeated negligent acts.  
(d) Incompetence.  
(e) The commission of any fraudulent, dishonest, or corrupt act which is substantially related to the qualifications, functions, and duties of pre-hospital personnel.

(f) Conviction of any crime which is substantially related to the qualifications, functions, and duties of prehospital personnel. The record of conviction or certified copy thereof shall be conclusive evidence of such conviction.

(g) Violating or attempting to violate directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this part or the regulations promulgated by the authority pertaining to prehospital personnel.

(h) Violating or attempting to violate any federal or state statute or regulation which regulates narcotics, dangerous drugs, or

controlled substances.

(i) Addiction to the excessive use of, or the misuse of, alcoholic beverages, narcotics, dangerous drugs, or controlled substances.

(j) Functioning outside the supervision of medical control in the field care system operating at the local level, except as authorized by any other license or certification.

1798.202. The county health officer or county designated physician may place on probation, suspend, or revoke the approval under this part of any training program for failure to comply with the provisions of this part or any rules or regulations adopted pursuant thereto.

1798.204. Proceedings for probation, suspension, revocation, or denial of a certificate, renewal of a certificate, or the approval of any training program under this part 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 county shall have all the powers granted by such provisions.

1798.206. Any person who violates any provision of this part or the rules and regulations promulgated pursuant thereto is guilty of a misdemeanor.

1798.208. Whenever any person who has engaged, or is about to engage, in any act or practice which constitutes, or will constitute, a violation of any provision of this part or the rules and regulations promulgated pursuant thereto, the superior court in and for the county wherein the acts or practices take place or are about to take place may issue an injunction or other appropriate order restraining such conduct on application of the authority, the Attorney General, or the district attorney of the county. The proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that no undertaking shall be required.

## CHAPTER 8. THE COMMISSION ON EMERGENCY MEDICAL SERVICES

### Article 1. The Commission

1799. The Commission on Emergency Medical Services is hereby created in the Health and Welfare Agency.

1799.2. The commission shall consist of 14 members appointed as follows:

(a) One full-time physician and surgeon, whose primary practice is emergency medicine, appointed by the Senate Rules Committee from a list of three names submitted by the California Chapter of the American College of Emergency Physicians.

(b) One physician and surgeon, who is a trauma surgeon, appointed by the Speaker of the Assembly from a list of three names submitted by the California Chapter of the American College of Surgeons.

(c) One physician and surgeon appointed by the Senate Rules Committee from a list of three names submitted by the California Medical Association.

(d) One county health officer appointed by the Governor from a list of three names submitted by the California Conference of Local Health Officers.

(e) One full-time registered nurse, who is employed as an authorized registered nurse in a base station hospital, appointed by the Governor from a list of three names submitted by the Emergency Department Nurses Association.

(f) One full-time paramedic, who is employed by a public safety agency, appointed by the Senate Rules Committee.

(g) One prehospital emergency medical service provider from the private sector, appointed by the Speaker of the Assembly from a list of three names submitted by the California Ambulance Association.

(h) One management member of an entity providing fire protection and prevention services appointed by the Governor from a list of three names submitted by the California Fire Chiefs Association.

(i) One medical director of a local EMS agency appointed by the Speaker of the Assembly.

(j) One hospital administrator of a base station hospital who is nominated by the California Hospital Association and is appointed by the Governor.

(k) One full-time peace officer who is a paramedic, who is nominated by the California Peace Officers Association, and who is appointed by the Governor.

(l) Three public members who have experience in local EMS policy issues and who are appointed by the Governor.

1799.4. The terms of the members of the commission shall be three years. No members shall serve more than two consecutive full terms.

1799.6. The members of the commission shall receive no compensation for their services, but shall be reimbursed for their actual, necessary, traveling and other expenses incurred in the discharge of their duties.

1799.8. The commission shall select a chairperson from its members and shall meet at least quarterly on the call of the director, the chairperson, or three members of the commission.

## Article 2. Duties of the Commission

1799.50. The commission shall review and approve regulations, standards, and guidelines to be developed by the authority for implementation of this part.

1799.51. The commission shall advise the authority on the development of an emergency medical data collection system.

1799.52. The commission shall advise the director concerning the

assessment of emergency facilities and services.

1799.53. The commission shall advise the director with regard to communications, medical equipment, training personnel, facilities, and other components of an emergency medical services system.

1799.54. The commission shall review and comment upon the emergency medical services portion of the State Health Facilities and Service Plan developed pursuant to Section 437.7.

1799.55. Based upon evaluations of the EMS systems in the state and their coordination, the commission shall make recommendations for further development and future directions of the emergency medical services in the state.

1799.56. The commission may utilize technical advisory panels established pursuant to the provisions of Section 1797.133 as are needed to assist in developing standards for emergency medical services.

#### CHAPTER 9. LIABILITY LIMITATION

1799.100. No local agency, entity of state or local government, or other public or private organization which sponsors, authorizes, supports, finances, or supervises the training of people, excluding physicians and surgeons, registered nurses, and licensed vocational nurses, as defined, in emergency medical services in training programs under this part, shall be liable for any civil damages alleged to result from such training programs.

1799.102. No person who in good faith, and not for compensation, renders emergency care at the scene of an emergency shall be liable for any civil damages resulting from any act or omission. The scene of an emergency shall not include emergency departments and other places where medical care is usually offered.

1799.104. (a) No physician or nurse, who in good faith gives emergency instructions to an EMT-II or mobile intensive care paramedic at the scene of an emergency, shall be liable for any civil damages as a result of issuing the instructions.

(b) No EMT-II or mobile intensive care paramedic rendering care within the scope of his duties who, in good faith and in a nonnegligent manner, follows the instructions of a physician or nurse shall be liable for any civil damages as a result of following such instructions.

1799.106. In addition to the provisions of Section 1483 of this code and of Section 1714.2 of the Civil Code and in order to encourage the provision of emergency medical services by firefighters, police officers or other law enforcement officers, EMT-I, EMT-II, or EMT-P, a firefighter, police officer or other law enforcement officer, EMT-I, EMT-II, or EMT-P who renders emergency medical services at the scene of an emergency shall only be liable in civil damages for acts or omissions performed in a grossly negligent manner or acts or omissions not performed in good faith. A public agency employing such a firefighter, police officer or other law enforcement officer,

EMT-I, EMT-II, or EMT-P shall not be liable for civil damages if the firefighter, police officer or other law enforcement officer, EMT-I, EMT-II, or EMT-P is not liable.

1799.108. Any person who has a certificate issued pursuant to this part from a certifying agency to provide prehospital emergency field care treatment at the scene of an emergency, as defined in Section 1799.102, shall be liable for civil damages only for acts or omissions performed in a grossly negligent manner or acts or omissions not performed in good faith.

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. The sum of ninety-four thousand four hundred eighty-two dollars (\$94,482) is hereby appropriated from the General Fund in the State Treasury to the Emergency Medical Services Authority for the purposes of Division 2.5 (commencing with Section 1797) of the Health and Safety Code.

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## CHAPTER 1261

An act to add Section 66902.5 to, and to repeal and add Article 2 (commencing with Section 52150) to, Chapter 7 of Part 28 of, and to repeal Section 10104 of, the Education Code, relating to bilingual education, making an appropriation therefor.

[Approved by Governor September 26, 1980. Filed with  
Secretary of State September 30, 1980]

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

SECTION 1. Section 10104 of the Education Code is repealed.

SEC. 2. Article 2 (commencing with Section 52150) of Chapter 7 of Part 28 of the Education Code is repealed.

SEC. 3. Article 2 (commencing with Section 52150) is added to Chapter 7 of Part 28 of the Education Code, to read:

### Article 2. Bilingual Teacher Grant Program

52150. The Legislature finds and declares that there are several hundred thousand school-age children in California whose primary language is other than English. The Legislature finds and declares that it is in the best interests of the people of the state to have a corps of bilingual teachers and school administrators who are highly skilled in the techniques of teaching children whose primary language is

other than English, and who understand the particular needs of such children.

In view of the critical need for qualified bilingual teachers, it is the intent of the Legislature that additional financial aid be provided for low-income bilingual persons interested in becoming certificated bilingual teachers.

52151. There is hereby established a Bilingual Teacher Grant Program. The Student Aid Commission shall administer the Bilingual Teacher Grant Program. The Student Aid Commission shall adopt such rules and regulations as are necessary for the effective administration of the Bilingual Teacher Grant Program in consultation with the Bilingual Teacher Grant Advisory Committee, established pursuant to Section 52154. Initial regulations shall be adopted within 180 days after the effective date of this section.

52152. (a) Grants shall be awarded to persons enrolled as freshmen, sophomores, juniors, seniors, and graduate students in four-year institutions pursuing a course of study in a Commission for Teacher Preparation and Licensing approved bilingual program and to persons enrolled as first and second year community college students pursuing a course of study in a chancellor's office approved program leading to bilingual certification. For graduate students working towards a bilingual, cross-cultural specialist credential, the Student Aid Commission shall verify, when applicable, with the Commission for Teacher Preparation and Licensing that the student has a basic teaching credential.

(b) Recipients who are enrolled in a two-year community college program must be enrolled in a chancellor's office approved program leading to bilingual certification. Students who are enrolled in four-year institutions must be pursuing a multiple- or single-subject credential with a bilingual emphasis at a Commission for Teacher Preparation and Licensing approved institution. Certificated teachers receiving this funding shall be pursuing a bilingual-crosscultural specialist credential at an institution with a Commission for Teacher Preparation and Licensing approved specialist program.

(c) All applicants must be certified by the educational institution at which they enroll as having demonstrated upon entry, sufficient oral proficiency in the target language to attain exit level competency in the target language and culture consistent with Commission for Teacher Preparation and Licensing requirements. First priority for grants shall be given to renewal Bilingual Teacher Corps and Bilingual-Crosscultural Teacher Development Grant recipients and persons with experience as bilingual teacher aides who are attending full time or who are attending part time and are employed as bilingual teacher aides and who are most likely to receive their bilingual teaching credential.

52153. The amount of all grants shall be determined on the basis of financial need as determined by Student Aid Commission need-analysis standards. Grants may be used to cover tuition, fees,

books, and subsistence expenses and shall supplement and not supplant other state and federal student financial aid programs. No grant shall exceed three thousand six hundred dollars (\$3,600), excluding summer sessions, and grants may be prorated for part-time attendance.

52154. The Student Aid Commission shall chair as ex officio member a Bilingual Teacher Grant Program Advisory Committee to advise the commission on the operations of the program and consisting of: a representative of the chancellor's office of the California Community Colleges, and four coordinators of bilingual teacher grant programs representing California community colleges, the California State University and Colleges, the University of California, and independent colleges and universities nominated by the respective segment and approved by the Student Aid Commission. One representative from each of the following: The Department of Education, the Commission for Teacher Preparation and Licensing, and the California Postsecondary Education Commission shall be nominated by each agency and approved by the Student Aid Commission. The Student Aid Commission shall appoint one student grant recipient to the advisory committee.

52155. The Student Aid Commission shall report annually no later than February 15 to the Legislature on the status of the Bilingual Teacher Grant Program. This report shall include, but not be limited to, demographic information on the grant recipients and participating institutions of higher education, numbers of grant recipients credentialed each year, projections on number of grantees expected to qualify as bilingual teachers, with appropriate timetables, and comments, provided by each participating institution through an onsite coordinator, concerning the supplementary services prescribed by subdivision (e) of Section 52156. Reports regarding supplementary services shall be supplied to the Student Aid Commission each year no later than November 15 by the Board of Governors of the California Community Colleges, the Trustees of the California State University and Colleges, and the Regents of the University of California.

52156. The following requirements for program administration shall be met by participating agencies:

(a) Participating community college campuses shall designate a certificated employee to coordinate the grant program and to provide supplementary services to the grant recipients. Participating campuses shall notify the Student Aid Commission and the chancellor's office immediately when a campus no longer has such a coordinator.

(b) Participating campuses of the California State University and Colleges shall designate personnel responsible for coordinating the grant program and providing supplementary services to the grant recipients. Each participating campus shall notify the Student Aid Commission annually of the person so designated.

(c) Participating campuses of the University of California shall

designate personnel responsible for coordinating the grant program and providing supplementary services to the grant recipients. Each participating campus shall notify the Student Aid Commission annually of the person so designated.

(d) Participating independent colleges and universities shall designate personnel responsible for coordinating the grant program and providing supplementary services to the grant recipients. Each participating campus shall notify the Student Aid Commission annually of the person so designated.

(e) Each participating campus with 10 or more recipients shall receive from the Student Aid Commission from the funds appropriated for the Bilingual Teacher Grant Program an allocation equal to the product of (1) the quotient obtained by dividing the number of recipients enrolled at the participating campus by the total number of recipients statewide multiplied by (2) 8 percent of the total annual appropriation to the Student Aid Commission and shall provide additional services as appropriate and limited to all of the following:

(1) To hire students who are bilingual and biliterate to tutor bilingual teacher grant participants at the institution of higher education in cases of special need.

(2) To finance workshops for bilingual teacher grant candidates.

(3) To finance institution of higher education staff development endeavors.

(4) To reimburse institution of higher education staff for expenses incurred for attending bilingual teacher preparation workshops.

(5) A maximum of 10 percent of this 8-percent allocation may be used to reimburse the institutions of higher education for direct program operating expenses, except for salaries.

(f) The funds received by participating campuses pursuant to subdivision (e) shall be expended for purposes which are directly related to the services actually rendered by the participating campus in furtherance of a public purpose to be achieved and such moneys paid shall not be in excess of the value of the benefit being conferred on the state by such participating campus, and shall not be used for any sectarian purposes.

52157. This article shall apply to the University of California only if the regents adopt a resolution making it so applicable.

52158. It is the intent of the Legislature that money for the funding and administration of the Bilingual Teacher Grant Program be appropriated each year in the annual Budget Act.

52159. The provisions of this article shall become operative July 1, 1981.

SEC. 4. Section 66902.5 is added to the Education Code, to read:

66902.5. The California Postsecondary Education Commission in cooperation with the Commission for Teacher Preparation and Licensing, the Chancellor's Office of the California Community Colleges, the California State University and Colleges, the University of California if the regents so direct, and the Association of

Independent California Colleges and Universities, shall review the current status of the transfer of student credit and identify those issues relative to the transferability of credit among the community colleges and four-year institutions of higher education involved in the Bilingual Teacher Grant Program and make recommendations to the Legislature and the statewide articulation conference by May 1, 1981.

SEC. 5. There is hereby appropriated from the General Fund to the Student Aid Commission the sum of eighty thousand dollars (\$80,000) for the period January 1 to July 1, 1981, for the purpose of initiating the operation of the Bilingual Teacher Grant Program pursuant to Chapter 7 (commencing with Section 52150) of Part 28 of the Education Code.

SEC. 6. Sections 1, 2, and 3 of this act shall become operative July 1, 1981.

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#### CHAPTER 1262

An act making an appropriation for historical resources, and in this connection amending and supplementing the Budget Act of 1980 by adding Section 2.8A thereto, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1980. Filed with  
Secretary of State September 30, 1980.]

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

SECTION 1. The Legislature finds and declares that the First Brick House and the Whaling Station, two buildings of historical significance in the Monterey State Historic Park; and the Neary-Rodriguez School Street Adobe, a building of historic significance in the Santa Cruz Missions State Historic Park, are in danger of collapse and in vital need of repair.

SEC. 2. Section 2.8A is added to the Budget Act of 1980, to read:

#### STATE BEACH, PARK, RECREATIONAL, AND HISTORICAL FACILITIES BOND ACT OF 1974 PROGRAM

Sec. 2.8A. 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 shall be paid out of the State Beach, Park, Recreational, and Historical Facilities Fund of 1974.

CAPITAL OUTLAY

RESOURCES

578.5A—For capital outlay, Department of Parks and Recreation, for purposes set forth in subdivisions (b) and (c) of Section 5096.85 of the Public Resources Code, payable from the State Beach, Park, Recreational, and Historical Facilities Fund of 1974 ..... 125,000

Schedule:

- (a) Monterey State Historic Park, First Brick House and the Whaling Station-emergency repairs ..... 100,000
- (b) Neary-Rodriguez School Street Adobe—emergency repairs .... 25,000

provided, 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 recommended by the State Park and Recreation Commission and reviewed by the Secretary of the Resources Agency.

SEC. 3. Sections 2 and 3 of this act shall become operative July 1, 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 the necessity are:

In order that funds may be made available to the Department of Parks and Recreation to undertake emergency repairs to the First Brick House and the Whaling Station, and to the Neary-Rodriguez School Street Adobe, as soon as possible, it is necessary that this act take effect immediately.

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CHAPTER 1263

An act to add Section 2036.5 to the Code of Civil Procedure, relating to discovery, and making an appropriation therefor.

[Approved by Governor September 29, 1980. Filed with Secretary of State September 30, 1980.]

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

SECTION 1. Section 2036.5 is added to the Code of Civil Procedure, to read:

2036.5. The Judicial Council shall develop and approve official

form interrogatories and requests for admission of the genuineness of any relevant documents or of the truth of any relevant matters of fact in any civil action in a state court based upon personal injury, property damage, wrongful death, unlawful detainer, breach of contract or fraud. Use of the approved form interrogatories and requests for admission shall be optional and shall not restrict the right to propound different or additional interrogatories and requests for admission.

In developing the form interrogatories and requests for admission required by this section, the Judicial Council shall consult with a representative advisory committee which shall include, but not be limited to, representatives of the plaintiff's bar, the defense bar, the public interest bar, court administrators, and the public. The form interrogatories and requests for admission shall be drafted in nontechnical language and shall be made available through the office of the clerk of the appropriate trial court.

The Judicial Council also shall promulgate any necessary rules to govern the use of such form interrogatories and requests for admission.

SEC. 2. There is hereby appropriated from the General Fund to the Judicial Council the sum of fifty-nine thousand two hundred forty-four dollars (\$59,244) to carry out the purposes of this act.

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## CHAPTER 1264

An act to amend Sections 20331, 20336, 20750.42, 20930.85, 21150, and 21263.3 of, to add Sections 20019.52 and 20334 to, and to repeal Section 20334 of, the Government Code, relating to the Public Employees' Retirement System, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1980. Filed with  
Secretary of State September 30, 1980 ]

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

SECTION 1. Section 20019.52 is added to the Government Code, to read:

20019.52. A member who is employed in a position that is reclassified from local miscellaneous to local safety and is made subject to a safety service retirement benefit, other than that provided in Section 21252.01, may make an irrevocable election in writing to remain subject to the miscellaneous service retirement benefit by filing a notice of such election with the board no later than 90 days after the date of reclassification.

SEC. 2. Section 20331 of the Government Code is amended to read:

20331. Except as otherwise provided in this section, any person

who on October 1, 1963, is employed by the university, and is a member of any retirement system maintained by the university, or who after that date enters university employment, shall be excluded from membership in this system.

A university member who is separated from university employment due to layoff and who is reemployed by the university shall have the right to elect, in accordance with regulations of the board of regents, membership in this system in lieu of membership in any retirement system maintained by the university, provided written notice of such election is filed with this system within 30 days after his reemployment.

Service rendered under the University of California Retirement System shall be considered service rendered under the Public Employees' Retirement System for the purpose of determining the method of calculation of subsequent retirement benefits under this part on or after December 1, 1979, in the case of a university employee who, on the date of reemployment, did not have the right to elect membership in the Public Employees' Retirement System.

Any member who is employed as a member of the police department or fire department of the university and who elects, in accordance with regulations of the board of regents, to become a sworn officer member of a retirement system of the university in such employment shall be excluded from membership in this system in such employment after the date upon which he becomes a member of the university system. Such election shall not constitute a permanent separation from state service for purposes of a right to refund of accumulated contributions but shall constitute a discontinuance of employment as a member of this system and entry into employment as a member of the university system within the meaning of Section 20015.5.

SEC. 3. Section 20334 of the Government Code is repealed.

SEC. 4. Section 20334 is added to the Government Code, to read:

20334. An employee serving on a part-time basis is excluded from this system unless:

(a) He is a member at the time he renders part-time service.

(b) His position requires service for at least an average of 20 hours a week, or requires service which is equivalent to at least an average of 20 hours a week, and he is not excluded pursuant to Section 20336.

(c) He is a member of the Board of Prison Terms and elects to become a member of this system pursuant to Section 20360.

(d) He is included by specific provision of the board relating to the exclusion of part-time employees.

SEC. 5. Section 20336 of the Government Code is amended to read:

20336. A person in employment which, in the opinion of the board, is on a seasonal, limited-term, on-call, emergency, intermittent, substitute, or other irregular basis is excluded from membership unless the employment is compensated and meets one of the following conditions:

(a) The appointment or employment contract fixes a term of full-time, continuous employment in excess of six months or, if a term is not fixed, full-time employment continues for longer than six months, in which case membership shall be effective not later than the first day of the seventh month of employment.

(b) The person is employed in one of the positions which provide state safety membership in accordance with Section 20017.6.

(c) The person is a member at the time of entering such employment.

(d) The person works more than 125 days, if employed on a per diem basis or, if employed on other than a per diem basis, 1,000 hours within the fiscal year, in which case membership shall be effective not later than the first day of the month following the month in which 125 days or 1,000 hours of service were completed.

This section shall supersede any contract provision excluding persons in any temporary or seasonal employment basis and shall apply only to persons entering employment on and after January 1, 1975. No contract or contract amendment entered into after January 1, 1981, shall contain any provision excluding persons on an irregular employment basis.

SEC. 5.5. Section 20750.42 of the Government Code is amended to read:

20750.42. The state's contribution to the retirement fund with respect to state industrial members is a sum equal to the following percentages of the compensation paid state industrial members:

(a) 17.35 percent during October 1977 through June 1978.

(b) 18.35 percent during the 1978-79 fiscal year.

(c) 19.91 percent during the 1979-80 fiscal year and subsequent years.

SEC. 6. Section 20930.85 of the Government Code is amended to read:

20930.85. "Public service," for purposes of this article, also means employment under a program sponsored by, and financed at least in part by, the Comprehensive Employment and Training Act of 1973, as amended.

If federal funds are available to pay the employer's contributions required under this section, employees who transfer within 31 days from a position in which they are excluded from membership pursuant to subdivision (f) of Section 20330 into a position with an employer in which membership is not excluded shall, if they so elect within 90 days of such transfer, receive credit for that excluded service and, in which case, the following requirements shall be met:

(a) Pursuant to board regulations, the member shall remit to the Public Employees' Retirement System the contributions, with interest, the member would have made had the member not been excluded.

(b) The employer for which the excluded service was performed shall remit to the Public Employees' Retirement System the contributions, without interest, that would have been made had the

member not been excluded.

(c) Such service credit shall be a charge against the employer for which the excluded service was performed.

SEC. 7. Section 21150 of the Government Code is amended to read:

21150. A person who has been retired under this system, for service or for disability, shall not be employed in any capacity thereafter by an employer in service which qualifies such person for membership in this system, unless he has first been reinstated from retirement pursuant to this chapter or unless such employment, without reinstatement, is authorized by this article. Any person employed in violation of this section and any public officer who knowingly employs or appoints him shall be jointly and severally liable to reimburse the state or the contracting agency, as the case may be, for any compensation paid in such employment. A retired person whose employment without reinstatement is authorized by this article shall acquire no service credit or retirement rights under this part with respect to such employment.

SEC. 8. Section 21263.3 of the Government Code is amended to read:

21263.3. The allowance provided by Section 21263 shall be paid with respect to a local miscellaneous or local safety member whose retirement was effective prior to his employer's election to be subject to such section with respect to employees in his employment, if at retirement he did not elect optional settlement two or three or an optional settlement involving life contingency under optional settlement four. The retirement allowance payable to such a retired member who elected any such optional settlement, or to a beneficiary of such a retired member, shall be increased by 15 percent, for time on and after such operative date and prior to the next annual adjustment under Article 1.5 (commencing with Section 21220) and the base allowance shall be increased by 15 percent for purpose of that and all subsequent annual adjustments. The amount payable to the beneficiary under such optional settlement shall be increased by the same percentage and in the same manner as the increase provided for the payment to the member.

The increased allowance provided by this section shall not be payable to a beneficiary who is receiving an allowance pursuant to this article on the day preceding the effective date of the act amending this section at the 1979-80 Regular Session of the Legislature, unless and until the employer of such retired member elects to be subject to the provisions of this section as so amended by amendment to its contract made in the manner prescribed for approval of contracts, except that an election among employees shall not be required. In the case of contracts made on or after such effective date, the operative date of Section 21263, for purposes of application of that section to local members, shall be the effective date of such contract or contract amendment.

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 that the provisions of this act shall be implemented prior to the commencement of the 1980-81 fiscal year, it is necessary that this act take effect immediately.

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## CHAPTER 1265

An act to amend Section 3542 of the Government Code, relating to public educational employment.

[Approved by Governor September 29, 1980 Filed with  
Secretary of State September 30, 1980 ]

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

SECTION 1. 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. The board shall respond within 10 days to any inquiry from a party to the action as to why the board has not sought court enforcement of the final decision or order. If the response does not indicate that there has been compliance with the board's final decision or order, the board shall seek enforcement of the final decision or order upon the request of the party. The board shall file in the court the record of the proceeding, certified by the board, and appropriate evidence disclosing the failure to comply with the decision or order. 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.

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## CHAPTER 1266

An act to amend Sections 862 and 17204 of the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1980 Filed with  
Secretary of State September 30, 1980 ]

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

SECTION 1. Section 862 of the Revenue and Taxation Code is amended to read:

862. When an assessee, after a request by the board, fails to file a property statement or files with the board a property statement or report on a form prescribed by the board with respect to state-assessed property and the statement fails to report any taxable tangible property information accurately, regardless of whether or not this information is available to the assessee, to the extent that such failures cause the board not to assess the property or to assess it at a lower valuation than it would have had the property information been reported accurately, the property shall be assessed in accordance with Section 864, and a penalty of 10 percent shall be added to the additional assessment. If the failure to report or the failure to report accurately is willful or fraudulent, a penalty of 25

percent shall be added to the additional assessment. If the assessee establishes to the satisfaction of the board that the failure to file an accurate property statement was due to reasonable cause and occurred notwithstanding the exercise of ordinary care and the absence of willful neglect, the board shall order the penalty abated, provided, the assessee has filed with the board written application for abatement of the penalty within the time prescribed by law for the filing of applications for assessment reductions.

SEC. 2. Section 17204 of the Revenue and Taxation Code is amended to read:

17204. (a) Except as otherwise provided in this section and Section 17205, the following taxes and assessments shall be allowed as a deduction for the taxable year within which paid or accrued:

- (1) State and local, and foreign, real property taxes, less any amounts received from the state pursuant to the authorization contained in Section 1d of Article XIII of the Constitution;
- (2) State and local personal property taxes;
- (3) State and local general sales taxes;
- (4) State and local taxes on the sale of gasoline, diesel fuel, and other motor fuels;
- (5) Standby or availability charges or special taxes for fire suppression and police protection services imposed pursuant to Chapter 397 of the Statutes of 1979; and

In addition, there shall be allowed as a deduction state and local, and foreign, taxes not described in the preceding sentence which are paid or accrued within the taxable year in carrying on a trade or business or an activity described in Section 17252 (relating to expenses for production of income).

(b) For purposes of this section and Section 17205—

(1) The term “personal property tax” means an ad valorem tax which is imposed on an annual basis in respect of personal property, and for the purpose of allowing a deduction under this part, includes, but is not limited to, fees imposed as an excise tax under Section 10751 of the Revenue and Taxation Code.

(2) (A) The term “general sales tax” means a tax imposed at one rate in respect of the sale at retail of a broad range of classes of items.

(B) In the case of items of food, clothing, medical supplies, and motor vehicles—

(i) The fact that the tax does not apply in respect of some or all of such items shall not be taken into account in determining whether the tax applies in respect of a broad range of classes of items, and

(ii) The fact that the rate of tax applicable in respect of some or all of such items is lower than the general rate of tax shall not be taken into account in determining whether the tax is imposed at one rate.

(C) Except in the case of a lower rate of tax applicable in respect of an item described in subparagraph (B), no deduction shall be allowed under this section for any general sales tax imposed in respect of an item at a rate other than the general rate of tax.

(D) A compensating use tax in respect of an item shall be treated as a general sales tax. For purposes of the preceding sentence, the term "compensating use tax" means, in respect of any item, a tax which—

(i) Is imposed on the use, storage, or consumption of such item, and

(ii) Is complementary to a general sales tax, but only if a deduction is allowable under subdivision (a) (3) in respect of items sold at retail in the taxing jurisdiction which are similar to such item.

(3) A state or local tax includes only a tax imposed by a state, a possession of the United States, or a political subdivision of any of the foregoing, or by the District of Columbia.

(4) A foreign tax includes only a tax imposed by the authority of a foreign country.

(5) If the amount of any general sales tax or of any tax on the sale of gasoline, diesel fuel, or other motor fuel is separately stated, then, to the extent that the amount so stated is paid by the consumer (otherwise than in connection with the consumer's trade or business) to his seller, such amount shall be treated as a tax imposed on, and paid by, such consumer.

(c) No deduction shall be allowed for the following taxes:

(1) Taxes paid or accrued to the state under this part;

(2) Taxes on or according to or measured by income or profits paid or accrued within the taxable year imposed by the authority of:

(A) The government of the United States or any foreign country;

(B) Any state, territory, county, city and county, school district, municipality, or other taxing subdivision of any state or territory;

(C) Taxes imposed by authority of the government of the United States include—

(i) The tax imposed by Section 3101 of the Internal Revenue Code of 1954 (relating to the tax on employees under the Federal Insurance Contributions Act);

(ii) The taxes imposed by Sections 3201 and 3211 of the Internal Revenue Code of 1954 (relating to the taxes on railroad employees and railroad employee representatives); and

(iii) The tax withheld on wages under Section 3402 of the Internal Revenue Code of 1954.

(3) Federal war profits and excess profits taxes.

(4) Estate, inheritance, legacy, succession, and gift taxes;

(5) Taxes computed as an addition to, or as a percentage of, taxes which are not deductible under this section;

(6) Taxes assessed against local benefits of a kind tending to increase the value of the property assessed, but this does not exclude the allowance as a deduction of so much of the taxes assessed against local benefits as is properly allocable to maintenance or interest charges.

(7) Taxes on real property, to the extent that Section 17205 requires such taxes to be treated as imposed on another taxpayer.

(8) Taxes imposed by Sections 4971–4975 of the Internal Revenue

Code of 1954 as amended by the Employee Retirement Income Security Act of 1974 (P.L. 93-406) (relating to excise taxes on prohibited transactions and contributions).

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; provided, that the changes made to Section 17204 of the Revenue and Taxation Code by this bill shall become operative on January 1, 1981. The facts constituting such necessity are:

Certain assesseees may have failed to file timely or accurate property statements through no fault of their own for the current fiscal year, and would be subject to a penalty for this year unless this bill becomes effective for this year. In order to avoid the unfairness, inequity, and hardship on these taxpayers it is necessary that this bill go into immediate effect.

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#### CHAPTER 1267

An act to amend Sections 17510, 17510.2, 17510.3, 17510.4, and 17510.7 of, and to repeal and add Sections 17510.5 and 17510.6 of, the Business and Professions Code, relating to charitable solicitations.

[Approved by Governor September 29, 1980 Filed with  
Secretary of State September 30, 1980.]

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

SECTION 1. Section 17510 of the Business and Professions Code is amended to read:

17510. (a) The Legislature finds that there exists in the area of solicitations and sales solicitations for charitable purposes a condition which has worked fraud, deceit and imposition upon the people of the state which existing legal remedies are inadequate to correct. Many solicitations or sales solicitations for charitable purposes have involved situations where funds are solicited from the citizens of this state for charitable purposes, but an insignificant amount, if any, of the money solicited and collected actually is received by any charity. The charitable solicitation industry has a significant impact upon the well-being of the people of this state. The provisions of this article relating to solicitations and sale solicitations for charitable purposes are, therefore, necessary for the public welfare.

(b) The Legislature declares that the purpose of this article is to safeguard the public against fraud, deceit and imposition, and to foster and encourage fair solicitations and sales solicitations for charitable purposes, wherein the person from whom the money is being solicited will know what portion of the money will actually be utilized for charitable purposes. This article will promote legitimate solicitations and sales solicitation for charitable purposes and restrict

harmful solicitation methods, thus the people of this state will not be misled into giving solicitors a substantial amount of money which may not in fact be used for charitable purposes.

SEC. 2. Section 17510.2 of the Business and Professions Code is amended to read:

17510.2. (a) As used in this article, "solicitation for charitable purposes," means any request, plea, entreaty, demand, or invitation, or attempt thereof, to give money or property, in connection with which:

- (1) Any appeal is made for charitable purposes; or
- (2) The name of any charity, philanthropic or charitable organization is used or referred to in any such appeal as an inducement for making any such gift; or
- (3) Any statement is made to the effect that such gift or any part thereof will go to or be used for any charitable purpose or organization.

(b) As used in this article, "sales solicitation for charitable purposes" means the sale of, offer to sell, or attempt to sell any advertisement, advertising space, book, card, chance, coupon device, magazine subscription, membership, merchandise, ticket of admission or any other thing or service in connection with which:

- (1) Any appeal is made for charitable purposes; or
- (2) The name of any charity, philanthropic or charitable organization is used or referred to in any such appeal as an inducement for making any such sale; or
- (3) Any statement is made to the effect that the whole or any part of the proceeds from such sale will go to or be used for any charitable purpose or organization.

(c) A solicitation for charitable purposes, or a sale, offer or attempt to sell for charitable purposes, shall include the 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 such solicitation.

(d) For purposes of this article, "charity" shall include any nonprofit community organization, fraternal, benevolent, educational, philanthropic, or service organization, governmental employee organization, any person who solicits or obtains contributions solicited from the public for charitable purposes, and any person who holds any assets for charitable purposes.

SEC. 3. Section 17510.3 of the Business and Professions Code is amended to read:

17510.3. (a) Prior to any solicitation or sales solicitation for charitable purposes, the solicitor or seller shall exhibit to the prospective donor or purchaser a card entitled "Solicitation or Sale for Charitable Purposes Card." The card shall be signed and dated under penalty of perjury by an individual who is a principal, staff member, or officer of the soliciting organization. The card shall give the name and address of the soliciting organization or the person

who signed the card and the name and business address of the paid individual who is doing the actual soliciting.

In lieu of exhibiting a card, the solicitor or seller may distribute during the course of the solicitation any printed material, such as a solicitation brochure, provided such material complies with the standards set forth below, and provided that the solicitor or seller informs the prospective donor or purchaser that such information as required below is contained in the printed material.

Information on the card or printed material shall be presented in at least 10-point type and shall include the following:

(1) The name and address of the combined campaign, each organization, or fund on behalf of which all or any part of the money collected will be utilized for charitable purposes;

(2) If there is no organization or fund, the manner in which the money collected will be utilized for charitable purposes;

(3) The amount, stated as a percentage of the total gift or purchase price, that will be used for direct fundraising expenses. If paid fundraisers are paid a set fee rather than a percentage of the total amount raised, the card shall show the total cost that is estimated will be used for direct fundraising expenses. If the solicitation is not a sale solicitation, the card may state, in place of the amount of fundraising expenses, that an audited financial statement of such expenses may be obtained by contacting the organization at the address disclosed;

(4) The non-tax-exempt status of the organization or fund, if the organization or fund for which the money or funds are being solicited does not have a charitable tax exemption under both federal and state law;

(5) The percentage of the total gift or purchase price which may be deducted as a charitable contribution under both federal and state law. If no portion is so deductible the card shall state that "This contribution is not tax deductible."

(b) Knowing and willful noncompliance by any individual volunteer who receives no compensation of any type from or in connection with a solicitation by any charitable organization shall subject the solicitor or seller to the penalties of the law.

(c) When the solicitation is not a sales solicitation, any individual volunteer who receives no compensation of any type from, or in connection with, a solicitation by any charitable organization may comply with the disclosure provisions by providing the name and address of the charitable organization on behalf of which all or any part of the money collected will be utilized for charitable purposes, by stating the charitable purposes for which the solicitation is made, and by stating to the person solicited that information about revenues and expenses of such organization, including its administration and fundraising costs, may be obtained by contacting the organization's office at the address disclosed. Such organization shall provide such information to the person solicited within seven days after receipt of the request. If the volunteer is 10 years of age

or younger, he is not required to make any disclosures.

SEC. 4. Section 17510.4 of the Business and Professions Code is amended to read:

17510.4. If the initial solicitation or sales solicitation is made by radio, television, letter, telephone, or any other means not involving direct personal contact with the person solicited, this solicitation shall clearly disclose the information required by Section 17510.3. This disclosure requirement shall not apply to any radio or television solicitation of 60 seconds or less. If the gift is subsequently made or the sale is subsequently consummated the solicitation or sale for charitable purposes card shall be mailed to or otherwise delivered to the donor, or to the buyer with the item or items purchased.

SEC. 5. Section 17510.5 of the Business and Professions Code is repealed.

SEC. 6. Section 17510.5 is added to the Business and Professions Code, to read:

17510.5. The financial records of a soliciting organization shall be maintained on the basis of generally accepted accounting principles as defined by the American Institute of Certified Public Accountants and the Financial Accounting Standards Board.

The disclosure requirements of subdivisions (c) and (e) of Section 17510.3 shall be based on the same accounting principles used to maintain the soliciting organization's financial records.

SEC. 7. Section 17510.6 of the Business and Professions Code is repealed.

SEC. 8. Section 17510.6 is added to the Business and Professions Code, to read:

17510.6. The provisions of this article shall not apply to solicitations, sales, offers, or attempts to sell within the membership of a charitable organization or upon its regular occupied premises, nor shall it apply to funds raised as authorized by Section 326.5 of the Penal Code.

SEC. 9. Section 17510.7 of the Business and Professions Code is amended to read:

17510.7. Compliance with any city or county ordinance which provides for disclosure of information relating to solicitations or sales solicitations for charitable purposes substantially similar to and no less than the disclosure requirements of this article shall be deemed to satisfy the requirements of this article.

SEC. 10. Notwithstanding Section 2231 or 2234 of the Revenue and Taxation Code, no appropriation is made by this act pursuant to these sections because this act creates a new crime or infraction, eliminates a crime or infraction, or changes the penalty for a crime or infraction. 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 1268

An act to amend Section 22003 of the Elections Code, relating to elections.

[Approved by Governor September 29, 1980 Filed with  
Secretary of State September 30, 1980 ]

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

SECTION 1. Section 22003 of the Elections Code is amended to read:

22003. The governing body of any city or district may by resolution request the board of supervisors of the county to permit the county clerk to render specified services to the city or district relating to the conduct of an election. Subject to approval of the board of supervisors, such services shall be performed by the county clerk.

The resolution of the governing body of the city or district shall specify the services requested.

Any city which requests the board of supervisors to permit the county clerk to prepare the city's election materials shall, if the board of supervisors agrees to provide such services, supply the county clerk with a list of its precincts no later than 61 days before the election.

Unless other arrangements satisfactory to the county have been made, the city or district shall reimburse the county in full for the services performed upon presentation of a bill to the city or district.

SEC. 2. The provisions of Section 10217.7 of the Elections Code, authorizing the rotation of candidates' names by precinct clusters, shall not be applicable to a city election which is consolidated with an election conducted throughout a county of the first class as defined in Section 28022 of the Government Code.

SEC. 3. Section 2 of this act shall be operative only until January 1, 1983, and as of such date is repealed.

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, in part, 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. 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 1269

An act to add Section 24200.2 to the Education Code, relating to the State Teachers' Retirement System.

[Approved by Governor September 29, 1980. Filed with Secretary of State September 30, 1980.]

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

SECTION 1. Section 24200.2 is added to the Education Code, to read:

24200.2. A retirant may name a new beneficiary and select a second joint and survivor option described in Section 24200 in the event the beneficiary selected at the time of retirement predeceases the retirant.

The effective date of the election of the new joint and survivor option shall be one year following the date notification is received by the board, provided both the retirant and the nominated option beneficiary are then living. Such notification shall include a certified copy of the death certificate of the predeceased beneficiary and a properly executed form for the new joint and survivor option.

The selection of the new joint and survivor option under this section and Section 24200 is subject to an actuarial reduction in the amount of the retirement allowance; provided, that a retirant may not elect a joint and survivor option that would result in any additional liability to the fund.

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CHAPTER 1270

An act to amend Section 17 of, to add Sections 17 and 19e to, and to repeal Sections 17 and 19e of, the Penal Code, relating to crimes.

[Approved by Governor September 29, 1980. Filed with Secretary of State September 30, 1980.]

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

SECTION 1. Section 17 of the Penal Code is amended to read:

17. (a) A felony is a crime which is punishable with death or by imprisonment in the state prison. Every other crime or public offense is a misdemeanor except those offenses that are classified as infractions.

(b) When a crime is punishable, in the discretion of the court, by imprisonment in the state prison or by fine or imprisonment in the county jail, it is a misdemeanor for all purposes under the following circumstances:

(1) After a judgment imposing a punishment other than

imprisonment in the state prison.

(2) When the court, upon committing the defendant to the Youth Authority, designates the offense to be a misdemeanor.

(3) When the court grants probation to a defendant without imposition of sentence and at the time of granting probation, or on application of the defendant or probation officer thereafter, the court declares the offense to be a misdemeanor.

(4) When the prosecuting attorney files in a court having jurisdiction over misdemeanor offenses a complaint specifying that the offense is a misdemeanor, unless the defendant at the time of his arraignment or plea objects to the offense being made a misdemeanor, in which event the complaint shall be amended to charge the felony and the case shall proceed on the felony complaint.

(5) When, at or before the preliminary examination or prior to filing an order pursuant to Section 872, the magistrate determines that the offense is a misdemeanor, in which event the case shall proceed as if the defendant had been arraigned on a misdemeanor complaint.

(c) When a defendant is committed to the Youth Authority for a crime punishable, in the discretion of the court, by imprisonment in the state prison or by fine or imprisonment in the county jail, the offense shall, upon the discharge of the defendant from the Youth Authority, thereafter be deemed a misdemeanor for all purposes.

(d) A violation of any code section listed in Section 19e is an infraction subject to the procedures described in Sections 19c and 19d, when:

(1) The prosecutor files a complaint charging the offense as an infraction unless the defendant, at the time he is arraigned, after being informed of his rights, elects to have the case proceed as a misdemeanor, or;

(2) The court, with the consent of the defendant, determines that the offense is an infraction in which event the case shall proceed as if the defendant had been arraigned on an infraction complaint.

SEC. 2. Section 17 is added to the Penal Code, to read:

17. (a) A felony is a crime which is punishable with death or by imprisonment in the state prison. Every other crime or public offense is a misdemeanor except those offenses that are classified as infractions.

(b) When a crime is punishable, in the discretion of the court, by imprisonment in the state prison or by fine or imprisonment in the county jail, it is a misdemeanor for all purposes under the following circumstances:

(1) After a judgment imposing a punishment other than imprisonment in the state prison.

(2) When the court, upon committing the defendant to the Youth Authority, designates the offense to be a misdemeanor.

(3) When the court grants probation to a defendant without imposition of sentence and at the time of granting probation, or on application of the defendant or probation officer thereafter, the

court declares the offense to be a misdemeanor.

(4) When the prosecuting attorney files in a court having jurisdiction over misdemeanor offenses a complaint specifying that the offense is a misdemeanor, unless the defendant at the time of his arraignment or plea objects to the offense being made a misdemeanor, in which event the complaint shall be amended to charge the felony and the case shall proceed on the felony complaint.

(5) When, at or before the preliminary examination or prior to filing an order pursuant to Section 872, the magistrate determines that the offense is a misdemeanor, in which event the case shall proceed as if the defendant had been arraigned on a misdemeanor complaint.

(c) When a defendant is committed to the Youth Authority for a crime punishable, in the discretion of the court, by imprisonment in the state prison or by fine or imprisonment in the county jail, the offense shall, upon the discharge of the defendant from the Youth Authority, thereafter be deemed a misdemeanor for all purposes.

SEC. 3. Section 19e is added to the Penal Code, to read:

19e. The following offenses are subject to the provisions of subdivision (d) of Section 17: Sections 330 and 415 of the Penal Code; subdivision (b) of Section 25658 and Section 25661 of the Business and Professions Code; Sections 27150.1, 40508, and 42005 of the Vehicle Code, and any other offense which the Legislature makes subject to the provisions of subdivision (d) of Section 17. Except where a lesser maximum fine is expressly provided for violation of any of such sections, any such violation which is an infraction is punishable by a fine not exceeding two hundred fifty dollars (\$250).

A conviction for any offense made an infraction under subdivision (d) of Section 17 shall not be grounds for the suspension, revocation, or denial of any license, or for the revocation of probation or parole of the person convicted.

SEC. 4. If any word, phrase, clause, or sentence in any section amended or added by this act, or any section or provision of this act, or application thereof to any person or circumstance, is held invalid, such invalidity shall not affect any other word, phrase, clause, or sentence in any section amended or added by this act, or any other section, provisions or application of this act, which can be given effect without the invalid word, phrase, clause, sentence, section, provision or application and to this end the provisions of this act are declared to be severable.

SEC. 5. Sections 1, 3, and 4 of this act shall remain operative only until January 1, 1986, and on such date are repealed. Section 2 of this act shall become operative January 1, 1986.

## CHAPTER 1271

An act to amend Section 2 of Chapter 802 of the Statutes of 1980, relating to taxation.

[Approved by Governor September 29, 1980 Filed with  
Secretary of State September 30, 1980 ]

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

SECTION 1. Section 2 of Chapter 802 of the Statutes of 1980 is amended to read:

Sec. 2. 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 Chapter 802 of the Statutes of 1980. 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.

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CHAPTER 1272

An act to amend Section 44987 of, and to add Section 22706.5 to, the Education Code, relating to the State Teachers' Retirement System.

[Approved by Governor September 29, 1980. Filed with  
Secretary of State September 30, 1980.]

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

SECTION 1. Section 22706.5 is added to the Education Code, to read:

22706.5. A member shall receive full credit for time during which the member serves as an elected officer of an employee organization while on a compensated leave of absence pursuant to Section 44987, if all of the following conditions are met:

(a) The member was employed and performed service in a position requiring membership in this system in the month prior to commencement of the leave of absence.

(b) The member contributes to the Teachers' Retirement Fund the amount that would have been contributed had the member been employed full time.

(c) The member's employing agency contributes to the Teachers' Retirement Fund an amount based upon the salary that would have been paid to the member had the member been employed full time and at a rate specified by the board.

The maximum amount of credit earned by a member for service as an elected officer of an employee organization shall not exceed eight calendar years.

A member shall not be eligible for disability under this system while on a leave of absence to serve as a full-time elected officer of an employee organization.

SEC. 2. Section 44987 of the Education Code is amended to read:

44987. (a) The governing board of a school district shall grant to any employee, upon request, a leave of absence without loss of compensation for the purpose of enabling such employee to serve as an elected officer of any statewide public employee organization, national organization with which such statewide organization is affiliated, or local school district public employee organization which is affiliated with such state and national organizations.

Such leave shall include, but is not limited to, absence for purposes of attendance by the employee at periodic, stated, special, or regular meetings of the body of such organization on which such employee serves as an officer. Compensation during such leave shall include retirement fund contributions required of the school district as employer. Required retirement contributions shall include the amount necessary to pay any unfunded liability cost for such retirement plan. The employee shall earn full service credit during such leave of absence and shall pay member contributions as prescribed by Section 22804. The maximum amount of such service credit earned shall not exceed eight calendar years. Any such employee who serves as a full-time officer of a public employee organization shall not be eligible for disability benefits under the State Teachers' Retirement System while on such a leave of absence.

Following the school district's payment of the employee for such leave of absence, the school district shall be reimbursed by the employee organization of which the employee is an elected officer for all compensation paid the employee on account of such leave. Reimbursement by the employee organization shall be made within 10 days after its receipt of the school district's certification of payment of compensation to the employee.

The leave of absence without loss of compensation provided for by this section is in addition to the released time without loss of compensation granted to representatives of an exclusive representative by subdivision (c) of Section 3543.1 of the Government Code.

For purposes of this section, "school district" also means "county superintendent of schools."

(b) An employee who after August 31, 1978, was absent on account of elected-officer service, shall receive full service credit in the State Teachers' Retirement System; provided that, not later than

April 30, 1981: (1) the employee makes a written request to the employer for a leave of absence for the period of such elected-officer service, and (2) the employee organization of which the employee is an elected officer pays to the employee's school district an amount equal to the required State Teachers' Retirement System member and employer retirement contributions, as prescribed by this section.

The school district, following such written request and payment, shall transmit the amount received to the State Teachers' Retirement System, informing it of the period of the employee's leave of absence. The State Teachers' Retirement System shall credit the employee with all service credit earned for the period of such elected-officer leave of absence.

In the event that the employee has been compensated by the school district for the period of such service, then, as a condition to the employee's entitlement to service credit for such period, the school district shall be reimbursed by the employee organization for the amount of such compensation.

The provisions of this subdivision shall apply retroactively to all service as an elective officer in a public employee organization occurring after August 31, 1978.

SEC. 3. No appropriation is made by this act pursuant to 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. It is recognized, however, that such agency or district may pursue any other remedies available to it under Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of that code.

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## CHAPTER 1273

An act to add Section 423.3 to the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 29, 1980. Filed with  
Secretary of State September 30, 1980.]

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

SECTION 1. Section 423.3 is added to the Revenue and Taxation Code, to read:

423.3. Any city or county may allow land subject to an enforceable restriction under the Williamson Act or a migratory waterfowl habitat contract to be assessed in accordance with one or more of the following:

(a) Land specified in subdivision (a) or (b) of Section 16142 of the Government Code shall be assessed at the value determined as provided in Section 423, but not to exceed 70 percent of its base year

value pursuant to Section 110.1, adjusted to reflect the percentage change in the cost of living not to exceed 2 percent per year.

(b) Land specified in subdivision (c) of Section 16142 of the Government Code shall be assessed at the value determined as provided in Section 423, but not to exceed 75 percent of its base year value pursuant to Section 110.1, adjusted to reflect the percentage change in the cost of living not to exceed 2 percent per year.

(c) Prime commercial rangeland shall be assessed at the value determined as provided in Section 423, but not to exceed 80 percent of its base year value pursuant to Section 110.1, adjusted to reflect the percentage change in the cost of living not to exceed 2 percent per year.

For purposes of this subdivision "prime commercial rangeland" means rangeland which meets all of the following physical-chemical parameters:

- (1) Soil depth of 12 inches or more.
- (2) Soil texture of fine sandy loam to clay.
- (3) Soil permeability of rapid to slow.
- (4) Soil with at least 2.5 inches of available water holding capacity in profile.
- (5) A slope of less than 30 percent.
- (6) A climate with 80 or more frost-free days per year.
- (7) Ten inches or more average annual precipitation.
- (8) When managed at potential, the land generally requires less than 17 acres to support one animal unit per year.

Property owners of land specified in this subdivision, shall demonstrate that their land falls within the above definition when requested by the city or county.

(d) Land specified in subdivision (d) of Section 16142 of the Government Code shall be assessed at the value determined as provided in Section 423, but not to exceed 90 percent of its base year value pursuant to Section 110.1, adjusted to reflect the percentage change in the cost of living not to exceed 2 percent per year.

(e) Waterfowl habitat shall be assessed at the value as provided in Section 423.7 but not to exceed 90 percent of its base year value pursuant to Section 110.1, adjusted to reflect the percentage change in the cost of living not to exceed 2 percent per year.

(f) Any city or county electing to be assessed pursuant to this section must make such election no later than December 31, 1982.

(g) Land assessed pursuant to this section shall continue to be so assessed, for the period of time that the land is restricted by contract under the Williamson Act.

SEC. 2. The Board of Equalization shall conduct a study of the costs associated with this act and shall report to the Legislature on or before December 31, 1982.

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.

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## CHAPTER 1274

An act to amend Section 18376 of the Welfare and Institutions Code, relating to senior citizens-health care, and making an appropriation therefor.

[Approved by Governor September 29, 1980. Filed with  
Secretary of State September 30, 1980.]

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

SECTION 1. Section 18376 of the Welfare and Institutions Code is amended to read:

18376. (a) The State Department of Health Services may authorize the payment of state funds to defray in part the cost of projects or the continuation of projects under which the city or county health agency provides a program of scheduled visits by public health nurses to senior citizen housing and center facilities for health consultant services.

(b) The State Department of Health Services shall authorize the payment of state funds to city and county health agencies, as well as to the federal ACTION Agencies Retired Senior Volunteer Program to train, coordinate, and reimburse senior volunteers who will augment the program by providing referral, counseling, and other support services to senior clients.

(c) The state share of any such project shall not exceed 50 percent of funds expended in connection with that project, except that if the project is established for the purposes set forth in subdivision (b), the state shall not be required to provide matching funds. City or county matching funds may be in the form of cash, facilities or services on the basis of a local project plan submitted to and approved by the department, except that if the project is established for the purposes set forth in subdivision (b), neither the city nor the county shall be required to provide matching funds.

SEC. 2. There is hereby appropriated from the General Fund the following sums:

(a) Forty-eight thousand dollars (\$48,000) to the State Department of Health Services for allocation to the federal ACTION Agencies Retired Senior Volunteer Program;

(b) Twenty-eight thousand eight hundred dollars (\$28,800) to the State Department of Health Services for allocation to city and county health agencies for compensation of nurse trainer supervisors, used to coordinate and train senior volunteers.

## CHAPTER 1275

An act to amend Section 1463 of, and to add Section 1463.01 to, the Penal Code, and to amend Section 41103.5 of the Vehicle Code, relating to fines, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1980 Filed with  
Secretary of State September 30, 1980]

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

SECTION 1. Section 1463 of the Penal Code is amended to read: 1463. Except as otherwise specifically provided by law:

(1) All fines and forfeitures including Vehicle Code fines and forfeitures collected upon conviction or upon the forfeiture of bail, together with moneys deposited as bail, in any municipal court or justice court, shall, as soon as practicable after the receipt thereof, be deposited with the county treasurer of the county in which such court is situated. The moneys so deposited shall be distributed as follows:

(a) Once a month there shall be transferred into the proper funds of the county an amount equal to the fines and forfeitures collected during the preceding month upon the conviction or upon the forfeiture of bail following arrests made by officers or other persons employed by the state or by the county in which such court is situated, exclusive of fines or forfeitures or forfeitures of bail collected from any person arrested by a state officer and charged with the commission of a misdemeanor under the Vehicle Code within the limits of a city within the county.

(b) Except as otherwise provided in this subdivision, once a month there shall be transferred into the traffic safety fund of each city in the county an amount equal to 50 percent of all fines and forfeitures collected during the preceding month upon the conviction or upon the forfeiture of bail from any person arrested by a state officer and charged with the commission of a misdemeanor under the Vehicle Code within that city, and an amount equal to the remaining 50 percent shall be transferred to the special road fund of the county; provided, however, that the board of supervisors of the county may, by resolution, provide that not more than 50 percent of the amount to be transferred to the special road fund of the county, be transferred into the general fund of the county.

Once a month there shall be transferred into the general fund of the county an amount equal to that percentage of the fines and forfeitures collected during the preceding month upon the conviction or upon the forfeiture of bail from any person arrested by a state officer and charged with the commission of a misdemeanor under the Vehicle Code on state highways constructed as freeways whereon city police officers enforced the provisions of the Vehicle

Code on April 1, 1965, within the limits of a city within the county which is set forth in the schedule appearing in subparagraph (c) of this paragraph (1). If this paragraph is applicable within a city, it shall apply uniformly throughout the city to all freeways regardless of the date of freeway construction or completion.

(c) Once a month there shall be transferred into the general fund of the county an amount equal to that percentage of the fines and forfeitures collected during the preceding month upon conviction or upon the forfeiture of bail following arrests made by officers or other persons employed by each city in the county which is set forth in the following schedule:

County and city	Percentage
<b>Alameda</b>	
Alameda .....	18
Albany .....	29
Berkeley .....	19
Emeryville.....	13
Hayward.....	10
Livermore ....	7
Oakland ..	22
Piedmont .....	44
Pleasanton .....	17
San Leandro .....	9
County percentage .....	21
<b>Amador</b>	
Amador.....	25
Ione .....	25
Jackson .....	25
Plymouth .....	25
Sutter Creek .....	25
County percentage .....	29
<b>Butte</b>	
Biggs .....	75
Chico ..	22
Gridley .....	49
Oroville .....	9
County percentage .....	20
<b>Calaveras</b>	
Angels.....	62
County percentage .....	62
<b>Colusa</b>	
Colusa .....	13
Williams .....	17
County percentage .....	16
<b>Contra Costa</b>	
Antioch .....	11
Brentwood .....	24
Concord .....	18

El Cerrito .....	19
Hercules .....	14
Martinez .....	22
Pinole .....	22
Pittsburg .....	5
Richmond .....	14
San Pablo .....	12
Walnut Creek .....	24
County percentage .....	14
Del Norte	
Crescent City .....	19
County percentage .....	19
El Dorado	
Placerville .....	14
County percentage .....	14
Fresno	
Clovis .....	23
Coalinga .....	21
Firebaugh .....	16
Fowler .....	34
Fresno .....	26
Huron .....	24
Kerman .....	14
Kingsburg .....	34
Mendota .....	11
Orange Cove .....	24
Parlier .....	21
Reedley .....	30
Sanger .....	29
San Joaquin .....	15
Selma .....	14
County percentage .....	24
Glenn	
Orland .....	27
Willows .....	36
County percentage .....	32
Humboldt	
Arcata .....	9
Blue Lake .....	26
Eureka .....	11
Ferndale .....	30
Fortuna .....	17
Trinidad .....	11
County percentage .....	11
Imperial	
Brawley .....	8
Calexico .....	10
Calipatria .....	30
El Centro .....	5

Holtville .....	16
Imperial .....	6
Westmorland ..	12
County percentage .....	8
Inyo	
Bishop .....	25
County percentage .....	25
Kern	
Bakersfield .....	10
Delano .....	13
Maricopa .....	36
Shafter .....	15
Taft .....	19
Tehachapi .....	12
Wasco .....	28
County percentage .....	12
Kings	
Corcoran .....	31
Hanford .....	21
Lemoore .....	25
County percentage .....	25
Lake	
Lakeport .....	33
County percentage .....	33
Lassen	
Susanville .....	21
County percentage .....	21
Los Angeles	
Alhambra .....	13
Arcadia .....	11
Avalon .....	54
Azusa .....	11
Bell .....	11
Beverly Hills .....	14
Burbank .....	14
Claremont .....	5
Compton .....	16
Covina .....	11
Culver City .....	10
El Monte .....	11
El Segundo .....	11
Gardena .....	22
Glendale .....	16
Glendora .....	12
Hawthorne .....	7
Hermosa Beach .....	14
Huntington Park .....	12
Inglewood .....	16
La Verne .....	14

Long Beach .....	14
Los Angeles .....	8
Lynwood .....	9
Manhattan Beach .....	13
Maywood .....	15
Monrovia .....	11
Montebello .....	11
Monterey Park .....	11
Palos Verdes Estates .....	10
Pasadena .....	9
Pomona .....	12
Redondo Beach .....	15
San Fernando .....	17
San Gabriel .....	16
San Marino .....	5
Santa Monica .....	11
Sierra Madre .....	11
Signal Hill .....	24
South Gate .....	13
South Pasadena .....	9
Torrance .....	16
Vernon .....	25
West Covina .....	11
Whittier .....	11
County percentage .....	11
Madera	
Chowchilla .....	17
Madera .....	16
County percentage .....	17
Marin	
Belvedere .....	16
Corte Madera .....	12
Fairfax .....	30
Larkspur .....	30
Mill Valley .....	13
Ross .....	18
San Anselmo .....	11
San Rafael .....	13
Sausalito .....	21
County percentage .....	16
Mendocino	
Fort Bragg .....	19
Point Arena .....	40
Ukiah .....	10
Willits .....	24
County percentage .....	17
Merced	
Atwater .....	23
Dos Palos .....	21

Gustine .....	23
Livingston .....	14
Los Banos .....	13
Merced .....	18
County percentage .....	18
Modoc	
Alturas .....	42
County percentage .....	42
Monterey	
Carmel .....	17
Gonzales .....	10
Greenfield .....	13
King City .....	36
Monterey .....	13
Pacific Grove .....	22
Salinas .....	36
Soledad .....	16
County percentage .....	23
Napa	
Calistoga .....	37
Napa .....	11
St. Helena .....	12
County percentage .....	14
Nevada	
Grass Valley .....	7
Nevada City .....	17
County percentage .....	9
Orange	
County percentage .....	15
Placer	
Auburn .....	18
Colfax .....	8
Lincoln .....	26
Rocklin .....	16
Roseville .....	10
County percentage .....	14
Plumas	
Portola .....	19
County percentage .....	19
Riverside	
Banning .....	35
Beaumont .....	15
Blythe .....	9
Coachella .....	12
Corona .....	12
Elsinore .....	10
Hemet .....	35
Indio .....	16
Palm Springs .....	35

Perris .....	14
Riverside .....	16
San Jacinto .....	41
County percentage .....	35
Sacramento	
Folsom .....	31
Galt .....	25
Isleton .....	13
North Sacramento .....	10
Sacramento .....	21
County percentage .....	26
San Benito	
Hollister .....	9
San Juan Bautista .....	28
County percentage .....	11
San Bernardino	
Barstow .....	23
Chino .....	14
Colton .....	21
Fontana .....	15
Needles .....	33
Ontario .....	20
Redlands .....	28
Rialto .....	15
San Bernardino .....	20
Upland .....	14
County percentage .....	20
San Diego	
Carlsbad .....	8
Chula Vista .....	23
Coronado .....	25
Del Mar .....	8
El Cajon .....	17
Escondido .....	16
Imperial Beach .....	8
La Mesa .....	23
Lemon Grove .....	8
National City .....	14
Oceanside .....	15
San Marcos .....	8
Vista .....	8
San Diego .....	6
County percentage .....	25
San Joaquin	
Lodi .....	18
Manteca .....	8
Ripon .....	11
Stockton .....	14
Tracy .....	15

County percentage .....	14
San Luis Obispo	
Arroyo Grande .....	9
Paso Robles .....	26
Pismo Beach .....	8
San Luis Obispo .....	21
County percentage .....	16
San Mateo	
Atherton .....	27
Belmont .....	7
Burlingame .....	38
Colma .....	40
Daly City .....	24
Hillsborough .....	75
Menlo Park .....	12
Millbrae .....	16
Redwood City .....	27
San Bruno .....	13
San Carlos .....	8
San Mateo .....	42
South San Francisco .....	12
County percentage .....	21
Santa Barbara	
Guadalupe .....	28
Lompoc .....	16
Santa Barbara .....	11
Santa Maria .....	12
County percentage .....	13
Santa Clara	
Alviso .....	75
Campbell .....	16
Gilroy .....	28
Los Altos .....	16
Los Gatos .....	30
Morgan Hill .....	11
Mountain View .....	13
Palo Alto .....	21
San Jose .....	13
Santa Clara .....	16
Sunnyvale .....	26
County percentage .....	16
Santa Cruz	
Capitola .....	21
Santa Cruz .....	23
Watsonville .....	21
County percentage .....	22
Shasta	
Redding .....	22
County percentage .....	22

Sierra	
Loyalton .....	75
County percentage .....	75
Siskiyou	
Dorris .....	18
Dunsmuir .....	29
Etna .....	18
Fort Jones .....	46
Montague .....	75
Mount Shasta .....	37
Tulelake .....	33
Yreka .....	30
County percentage .....	29
Solano	
Benicia .....	17
Dixon .....	18
Fairfield .....	18
Rio Vista .....	19
Suisun .....	7
Vacaville .....	15
Vallejo .....	18
County percentage .....	19
Sonoma	
Cloverdale .....	40
Cotati .....	40
Healdsburg .....	40
Petaluma .....	24
Rohnert Park .....	40
Santa Rosa .....	40
Sebastopol .....	40
Sonoma .....	40
County percentage .....	40
Stanislaus	
Ceres .....	14
Modesto .....	15
Newman .....	10
Oakdale .....	15
Patterson .....	20
Riverbank .....	18
Turlock .....	19
County percentage .....	15
Sutter	
Live Oak .....	17
Yuba City .....	17
County percentage .....	17
Tehama	
Corning .....	26
Red Bluff .....	39
Tehama .....	10

County percentage .....	31
<b>Tulare</b>	
Dinuba .....	21
Exeter .....	23
Lindsay .....	24
Porterville .....	26
Tulare .....	20
Visalia .....	17
Woodlake .....	15
County percentage .....	21
<b>Tuolumne</b>	
Sonora .....	23
County percentage .....	23
<b>Ventura</b>	
Fillmore .....	16
Ojai .....	16
Oxnard .....	16
Port Hueneme .....	16
Santa Paula .....	16
Ventura .....	16
County percentage .....	16
<b>Yolo</b>	
Davis .....	22
Winters .....	19
Woodland .....	20
County percentage .....	20
<b>Yuba</b>	
Marysville .....	15
Wheatland .....	38
County percentage .....	15

In any county for which a county percentage is set forth in the above schedule and which contains a city which is not listed or which is hereafter created, there shall be transferred to the county general fund the county percentage. In any county for which no county percentage is set forth, and in which a city is hereafter created, there shall be transferred to the county general fund 15 percent.

A county and a city therein may, by mutual agreement, adjust the percentages herein.

(d) Once a month there shall be transferred to each city in the county an amount equal to the total sum remaining after the transfers provided for in subparagraphs (b) and (c) above have been made of the fines and forfeitures collected during the preceding month upon conviction or upon the forfeiture of bail following arrests made by officers or other persons employed by such city or arrests made by state officers for misdemeanor violations of the Vehicle Code.

(2) Any money deposited with such court or with the clerk thereof which, by order of the court or for any other reason, should

be returned in whole or in part to any person, or which is by law payable to the state or to any other public agency, shall be paid to such person or to the state or to such other public agency by warrant of the county auditor, which shall be drawn upon the requisition of the clerk of such court.

All money deposited as bail which has not been claimed within one year after the final disposition of the case in which such money was deposited, or within one year after an order made by the court for the return or delivery of such money to any person, shall be apportioned between the city and the county and paid or transferred in the manner hereinabove provided for the apportionment and payment of fines and forfeitures. This paragraph shall control over any conflicting provisions of law.

(3) Notwithstanding any other provision of law, in the event that a county or court elects to discontinue processing the posting of bail for an issuing agency, the city, district or other issuing agency may elect to receive, deposit, accept forfeitures and otherwise process the posting of bail for parking violations for which such city, district, or other issuing agency has issued a written notice of parking violation pursuant to Section 41103 of the Vehicle Code. Notwithstanding paragraph (1), if the city, district, or other issuing agency processes such posting of bail, the issuing agency may retain the forfeited bail collected.

For the purposes of this subdivision, neither the California Highway Patrol, nor a sheriff's office when acting on a contract basis for a city, shall be deemed an "issuing agency".

The issuing agency may elect to contract with the county, a municipal or justice court, or another issuing agency within the county to provide for the processing of the posting of bail for such parking violations.

No provision of this section shall be construed to require any county or municipal or justice court to process the posting of bail for a city, district or other issuing agency prior to the filing of a complaint. If a county or court has been processing the posting of bail for an issuing agency, and if the county or court elects to terminate the processing of the posting of bail the issuing agency and the county or court shall reach agreement for the transfer of the processing activity. The agreement shall permit the county or court to phase out, and the issuing agency to phase in, personnel, equipment, and facilities that may have been acquired or need to be acquired in contemplation of a long-term commitment to process the posting of bail for the issuing agency's parking violations.

SEC. 1.5. Section 1463.01 is added to the Penal Code, to read:

1463.01. For purposes of subdivision (3) of Section 1463, "forfeited bail collected" shall include any penalty assessment, but shall not include the surcharge imposed pursuant to Section 1206.5 or 1206.6.

SEC. 2. Section 41103.5 of the Vehicle Code is amended to read:

41103.5. (a) Whenever any person has for a period of 15 or more

days failed to comply with the provisions of paragraph (2) of Section 41103, the magistrate or clerk of the court or the officer of the issuing agency designated by the magistrate or clerk of the court shall give notice of such fact to the department if no warrant of arrest is outstanding in connection with the matter. Such notice shall be given not more than 30 days after such failure to appear. Whenever thereafter the case, in which the notice of violation was given pursuant to paragraph (2) of Section 41103, is adjudicated, the magistrate or clerk of the court hearing the case shall immediately sign and file with the department a certificate to that effect.

(b) Whenever a fine or forfeiture is received in connection with a matter for which a notice of noncompliance has been forwarded under this section, the clerk of the court, or judge if there is no clerk, shall determine the amount of the administrative service fee due as established by the department under Section 4763, and shall transmit such amount to the county treasury. The county treasurer shall, at least once each month, transmit the fees collected pursuant to this section to the State Treasury for deposit in the Motor Vehicle Account in the State Transportation Fund. The funds shall be transmitted in the same manner as fines collected for the state by the county. In any case involving federal jurisdictions, such fees shall be transmitted monthly to the Department of Motor Vehicles for deposit in the Motor Vehicle Account in the State Transportation Fund.

(c) The procedure for the collection of bail authorized by this section and the provisions of Sections 4760 to 4765, inclusive, shall apply to any registration or equipment infraction charged simultaneously with any parking violation in any notice of violation issued to an unattended vehicle under paragraph (1) of Section 41103.

SEC. 3. Section 1 of this act is declaratory of existing law, and is adopted in order to make it clear that the law does not now preclude, and has not previously precluded, a city, district, or other issuing agency from processing parking violations and retaining the forfeited bail collected when a county or court elects to terminate processing the posting of bail.

SEC. 3.5. Section 1.5 of this act shall become operative only if Senate Bill 1408 of the 1979-80 Regular Session is enacted, and in such event shall become operative at the same time as Senate Bill 1408.

SEC. 4. Notwithstanding Sections 2229, 2230, and 2231 of the Revenue and Taxation Code, 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 Sections 2229 and 2230 of the Revenue and Taxation 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:

During the past year certain municipal courts have refused to process parking violations and this has significantly affected the enforcement authority of certain issuing agencies. Therefore, an immediate clarification in the law is necessary to enable issuing agencies to exercise this authority and avoid parking, liability and conflicting claims problems which potentially exist under the current situation.

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## CHAPTER 1276

An act to add Chapter 9 (commencing with Section 56875) to Part 30 of the Education Code, relating to funding for handicapped children.

[Approved by Governor September 29, 1980 Filed with  
Secretary of State September 30, 1980.]

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

SECTION 1. Chapter 9 (commencing with Section 56875) is added to Part 30 of the Education Code, to read:

### CHAPTER 9. JOINT FUNDING FOR EDUCATION OF HANDICAPPED CHILDREN ACT OF 1980

56875. (a) The Legislature hereby finds and declares that numerous federal and state programs make funds available for the provision of education and related services to handicapped children. The Legislature further finds and declares that the state has not maximized the use of available federal funds for provision of such services to these children. The Legislature further recognizes the need to simplify procedures for securing all available funds for services to handicapped children and for utilizing federal financial resources to the greatest possible extent.

(b) It is the intent of the Legislature to provide local educational agencies with maximum flexibility to secure and utilize all available state and federal funds so as to enable such agencies to meet the needs of handicapped children more effectively and efficiently. Furthermore, it is the intent of the Legislature to provide maximum federal funding to local educational agencies for the provision of education and related services to handicapped children.

56876. On or before April 1, 1981, the Department of Education, the State Department of Health Services, the State Department of Mental Health, the State Department of Developmental Services, the State Department of Social Services, the Department of Rehabilitation, the Employment Development Department, the Department of the Youth Authority, and the State Council on Developmental Disabilities shall, in conformance with procedures

established by the Office of Planning and Research, submit a plan to both the Senate Finance Committee and the Assembly Ways and Means Committee that shall include a timetable for implementation of this chapter, including, but not limited to the following:

(a) A list of provisions of state regulations and laws for which waivers may be granted in order that local educational agencies may maximize available federal funds to provide education and related services to handicapped children without decreasing funds available to other state and local agencies.

(b) A list of provisions of federal law, federal regulations, or both, for which it is recommended that the state seek waiver.

(c) A list of specific related services which shall be provided by the respective departments and their political subdivisions to carry out the mandate of Public Law 94-142 and its implementing regulations.

56877. (a) Implementation of the funding procedures established pursuant to this chapter shall commence on July 1, 1981.

(b) The Department of Education shall, in order to implement the provisions of this chapter, do all of the following:

(1) Provide necessary technical assistance to local educational agencies.

(2) Establish procedures for such agencies to obtain available federal funds.

(3) Apply for necessary waivers of federal statutes and regulations governing federal education programs that provide education and related services to handicapped children.

(c) The State Board of Education shall grant necessary waivers of applicable state laws and administrative regulations relating to special education programs to participating local educational agencies.

56878. If necessary to simplify procedures for securing all available funds for services to handicapped children and for utilizing federal financial resources to the greatest possible extent, the Health and Welfare Agency, at the request of the State Department of Health Services, the State Department of Mental Health, the State Department of Developmental Services, the State Department of Social Services, the Department of Rehabilitation, or the Employment Development Department; and the Youth and Adult Corrections Agency, at the request of the Department of the Youth Authority, may grant waivers of state laws and regulations for which they have administrative responsibility. Waivers granted pursuant to this section may be only for those laws and regulations identified in the plan submitted to the Legislature pursuant to Section 56876, and only when necessary to implement this act.

56879. Based upon the plan submitted pursuant to Section 56876, the State Department of Health Services, the State Department of Mental Health, the State Department of Developmental Services, the State Department of Social Services, the Department of Rehabilitation, the Employment Development Department, and the

Department of the Youth Authority shall, in order to implement the provisions of this chapter, do the following:

(1) Grant necessary waivers of applicable state laws and administrative regulations under their respective jurisdictions to local educational agencies and other agencies, and issue such other administrative regulations as are necessary.

(2) Apply for necessary waivers of federal statutes and regulations governing federal programs which provide services to handicapped children and which are under their respective jurisdictions.

56880. (a) The Department of Finance shall evaluate the funding procedures established pursuant to this chapter.

(b) Such evaluation shall examine the implementation, effectiveness, and financial benefits of the funding procedures and shall include, but not be limited to, an examination of all the following:

(1) The availability to handicapped children of education and related services provided by public and private agencies.

(2) The amount of federal funds utilized to provide education and related services to handicapped children and the increase in the proportion of federal funds utilized by participating local educational agencies to provide such services to handicapped children.

(3) The effect of the funding procedures established pursuant to this chapter on the amount of total federal funds received by the state to provide human services.

(c) The scope, content, and methodology of the evaluation shall be submitted for review to the Joint Legislative Budget Committee.

(d) A preliminary evaluation shall be submitted to the Legislature no later than January 1, 1982; an interim evaluation no later than January 1, 1983; and a final evaluation no later than January 1, 1984.

56881. (a) The Office of Planning and Research shall establish procedures for development and review of state agency plans for funds available under all federal programs which may provide services to handicapped children and which are within the jurisdictions of the Department of Education, the State Department of Health Services, the State Department of Mental Health, the State Department of Developmental Services, the State Department of Social Services, the Department of Rehabilitation, the Employment Development Department, the Department of the Youth Authority, and the State Council on Developmental Disabilities. Results of the review shall be transmitted to the state agency preparing the plan and to the responsible cabinet level agency to make a determination if the plan shall be changed. Such planning procedures and review shall assure coordination between state agencies and shall assure that applicable plans enable local education agencies to secure maximum available federal funding, without decreasing funds available to other state and local agencies, under each of the following federal programs:

(1) Education for All Handicapped Children as provided under

P.L. 91-230, Education of the Handicapped Act, Title VI, Part B, as amended by P.L. 93-380 and by P.L. 94-142.

(2) Medical Assistance (Medicaid), as provided under the Social Security Act of 1935, Title XIX, as amended.

(3) Early and Periodic Screening, Diagnosis and Treatment as provided under P.L. 74-271, Social Security Act of 1935, Title XIX as amended, Section 1905 (a) (4) (B).

(4) Developmental Disabilities Services as provided under P.L. 91-517, the Developmental Disabilities Services and Construction Act of 1970, as amended by P.L. 94-103 and the Developmental Disabilities Assistance and Bill of Rights Act, as amended by P.L. 95-602, Amendments to the Rehabilitation Act of 1973.

(5) Social Services as provided under P.L. 74-271, Social Security Act of 1935, Title XX, as amended by P.L. 93-647, P.L. 94-401, P.L. 94-566, and P.L. 95-171.

(6) Crippled Children's Services as provided under P.L. 74-271, Social Security Act of 1935, Title V, Section 504, as amended.

(7) Vocational Training and Counseling Services as provided under P.L. 94-482, Vocational Educational Act; P.L. 93-112, as amended by P.L. 93-516, the Rehabilitation Act of 1973; and P.L. 93-203, the Comprehensive Employment and Training Act, as amended.

(8) Maternal and Child Health Services, as provided under P.L. 74-271, Social Security Act of 1935, Title V, Section 503, as amended.

(9) Supplementary Security Income, Disabled Children's Program, as provided under P.L. 74-271, Social Security Act of 1935, Title XVI, Section 1615(b) as amended by P.L. 94-566.

(b) In addition to the programs enumerated in subdivision (a), any other programs under which the following services may be provided to handicapped children shall be subject to the review procedure specified in subdivision (a) as conducted by the Office of Planning and Research.

(1) Screening and identification.

(2) Assessment and diagnosis.

(3) Health related services, including, but not limited to, speech pathology and audiological services, physical therapy, occupational therapy, and vision services and therapy.

(4) Psychological counseling.

(5) Mental health services.

(6) Vocationally related services.

(7) Social services.

(8) Transportation services.

(9) Other services necessary to assist handicapped children in benefitting from their education.

56882. On or before May 1, 1981, the State Board of Education shall, after consultation with the Office of Planning and Research and all state agencies listed in Section 56876, issue regulations for implementation of the provisions of this chapter, to be used by local educational agencies, in implementing the provisions of this chapter.

Such regulations shall identify all other administrative regulations relating to education and related services which shall be waived for local educational agencies. Such regulations shall include, but not be limited to regulations relating to application, accounting, and reporting procedures for programs which may provide education and related services for handicapped children.

56883. (a) On or before July 1, 1981, the Department of Education shall, after consultation with the Office of Planning and Research and the agencies listed in Section 56876, and based upon the plan required in Section 56876, issue guidelines to local educational agencies, for implementation of the provisions of this chapter.

(b) Such guidelines shall include, but not be limited to, the following:

(1) Identification of sources of funds available under all state and federal programs which may provide education and related services to handicapped children and for which local educational agencies and other applicable agencies are eligible.

(2) Identification of all statutes and regulations applicable to programs for handicapped children under the jurisdictions of the Department of Education, the State Department of Health Services, the State Department of Mental Health, the State Department of Developmental Services, the State Department of Social Services, the Department of Rehabilitation, the Employment Development Department, and the Department of the Youth Authority, which may be waived pursuant to subdivisions (b), (c), and (d) of Section 56877.

56884. To assist in implementation of the provisions of this chapter, the Department of Education and state agencies listed in Section 56876 shall, by April 1, 1981, after consultation with representatives of their respective local administering agencies, negotiate and enter into interagency agreements to help promote coordination of services for handicapped children. The interagency agreements shall include, but not be limited to, the definition of each agency's roles and responsibilities for serving handicapped children.

56885. The Department of Finance shall, after consultation with appropriate state agencies ascertain the amounts of funds, if any, that should be transferred between state agencies in order to achieve the purposes of the bill and shall notify the Joint Legislative Budget Committee, the Senate Education Committee, and the Assembly Education Committee of such amounts pursuant to the Budget Act.

Any savings that may occur to any program due to maximized use of federal funds or services to handicapped children as provided in this article shall be utilized to defer projected increased costs to meet full mandates of Public Law 94-142.

## CHAPTER 1277

An act to add Sections 19416.7, 19417.7, and 19545 to the Business and Professions Code, relating to horseracing.

[Approved by Governor September 29, 1980. Filed with Secretary of State September 30, 1980 ]

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

SECTION 1. Section 19416.7 is added to the Business and Professions Code, to read:

19416.7. "Paint horse" is any horse, including mare, gelding, colt, and filly, that meets the requirements of and is registered by the American Paint Horse Association.

SEC. 2. Section 19417.7 is added to the Business and Professions Code, to read:

19417.7. "Paint racing" is the form of horseracing in which each participating horse is a paint horse, is mounted by a jockey, and is engaged in races on the flat over a distance of not less than 220 yards or more than four miles.

SEC. 3. Section 19545 is added to the Business and Professions Code, to read:

19545. In order to encourage and develop the racing of paint horses, whenever the California Exposition and State Fair or a district or county fair conducts a program of horseraces on which there is parimutuel wagering, it may provide a program of paint racing on the same days that it provides a program of other types of horseracing, if sufficient paint horses are available to provide competition in one or more paint races.

Such paint horse events may be in addition to the customary number of thoroughbred, quarter horse, or standardbred events.

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CHAPTER 1278

An act to amend Sections 5230, 5271, 5413, 5414, and 5417 of, to add Sections 5420 and 5421 to, and to add and repeal Section 5412.5 of, the Business and Professions Code, relating to outdoor advertising.

[Approved by Governor September 29, 1980 Filed with Secretary of State September 30, 1980 ]

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

SECTION 1. Section 5230 of the Business and Professions Code is amended to read:

5230. The governing body of any city, county, or city and county may enact ordinances, including, but not limited to, land use or

zoning ordinances, imposing restrictions on advertising displays adjacent to any street, road, or highway equal to or greater than those imposed by this chapter; provided, that the provisions of Section 5412.5 are complied with.

SEC. 2. Section 5271 of the Business and Professions Code is amended to read:

5271. Except as otherwise provided in this chapter, the provisions of this chapter apply only to the placing of advertising displays within view of highways located in unincorporated areas of this state, except that the placing of advertising displays within 660 feet from the edge of the right-of-way of, and the copy of which is visible from, interstate highways or primary highways, including the portions of such highways located in incorporated areas, shall be governed by this chapter.

SEC. 3. Section 5412.5 is added to the Business and Professions Code, to read:

5412.5. Notwithstanding any other provision of this chapter, no advertising display which was lawfully erected within this state shall be compelled to be removed by any city, county, city and county, or any other local entity, whether or not the advertising display is removed pursuant to, or because of, this chapter or any other statute, ordinance, or regulation of any governmental entity.

This section applies to all displays which were lawfully erected in compliance with state and local laws in effect when the displays were erected, if the displays were still in existence on November 6, 1978, regardless of whether the displays have become nonconforming or have been provided an amortization period. Notwithstanding the foregoing sentence, this section shall not apply to displays which were erected pursuant to a written agreement with a governmental entity providing for the removal of the displays after a fixed period of time.

This section does not apply to advertising displays compelled to be removed by the Department of Transportation to comply with Section 131 of Title 23 of the United States Code or to any advertising display acquired for a public use by any governmental entity pursuant to Title 7 (commencing with Section 1230.010) or Part 3 of the Code of Civil Procedure.

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. 4. Section 5413 of the Business and Professions Code is amended to read:

5413. Prior to commencing judicial proceedings to compel the removal of an advertising display, the director may elect to negotiate with the person entitled to compensation upon the removal of the advertising display in order to arrive at an agreement as to the amount of compensation to be paid. If the negotiations are unsuccessful, or if the director elects not to engage in such negotiations, a civil proceeding may be instituted as set forth in

**Section 5414.**

SEC. 5. Section 5414 of the Business and Professions Code is amended to read:

5414. Proceedings to compel the removal of displays and to determine the compensation required by this chapter shall be conducted pursuant to Title 7 (commencing with Section 1230.010) of Part 3 of the Code of Civil Procedure.

SEC. 6. Section 5417 of the Business and Professions Code is amended to read:

5417. From state funds appropriated by the Legislature for such purposes and from federal funds made available for such purposes, the California Transportation Commission may allocate funds to the director for payment of compensation authorized by this chapter.

SEC. 7. Section 5420 is added to the Business and Professions Code, to read:

5420. The Legislature finds that, due to recent amendments to the federal law dealing with outdoor advertising, the federal administrative interpretation of those amendments, and recent judicial opinions concerning advertising, the provisions of this chapter and those of numerous local ordinances concerning the regulation, control, prohibition, and removal of advertising displays require substantial review and study. To provide for that review and study, without prejudice to any party's rights, Sections 5412.5 and 5421 are enacted to provide a moratorium on the removal by any governmental entity of lawfully erected advertising displays and to establish a advisory committee to examine the need for legislation in this area.

SEC. 8. Section 5421 is added to the Business and Professions Code, to read:

5421. A special advisory committee, to be called the Governor's Outdoor Advertising Advisory Committee, is hereby created.

The Governor shall appoint the following members of the committee: three representatives of the outdoor advertising industry, three representatives of local government, and three public members.

The Senate Rules Committee shall appoint a Senator as an ex officio member, and the Speaker of the Assembly shall appoint one Assemblyman as an ex officio member. The Chief of the Outdoor Advertising Section of the Department of Transportation shall be a nonvoting coordinator of the committee.

The committee shall study and make a written report on the current status of all laws, ordinances, and regulations affecting outdoor advertising, the impact of these laws, ordinances, and regulations on the state, the public, owners of outdoor advertising displays, advertisers, cities, and counties. The committee shall make recommendations for legislation that would insure:

- (a) The state's compliance with all existing federal requirements.
- (b) Local entities' ability to regulate outdoor advertising.
- (c) Equal treatment for all persons affected by such laws,

ordinances, and regulations.

(d) That the ability of the citizens of this state to communicate is not unreasonably impaired.

The committee shall be in existence until January 1, 1982, with a written report with legislative proposals submitted to the Governor and Legislature on or before March 31, 1981.

SEC. 9. 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. The Legislature finds that this bill does not require any governmental entity to remove any outdoor advertising display and hence does not impose any state-mandated cost on local governments. However, in recognition of the fact that local governments may choose to contest this finding, 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.

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## CHAPTER 1279

An act to amend Sections 7681 and 7683 of the Labor Code, relating to pressure vessels.

[Approved by Governor September 29, 1980. Filed with  
Secretary of State September 30, 1980.]

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

SECTION 1. Section 7681 of the Labor Code is amended to read:

7681. (a) The division shall inspect or cause to be inspected each installed tank at least every five years, except for any tank specified in subdivision (b). Tanks described in subdivision (b) and put into service before January 1, 1981, shall be inspected once for permit purposes after January 1, 1981.

(b) Any air pressure tank which contains 25 cubic feet or less and is not subject to pressure of more than 150 pounds per square inch shall be inspected or caused to be inspected by the division when the tank is initially placed into service if the tank is constructed, inspected and stamped in compliance with the American Society of Mechanical Engineers (AMSE) Code, or the design, material, and construction of the tank is approved by the division as equivalent to the ASME Code.

SEC. 2. Section 7683 of the Labor Code is amended to read:

7683. (a) If a tank or boiler is found to be in a safe condition for operation, a permit shall be issued by or on behalf of the division for its operation.

(b) In the case of a tank, the permit shall continue in effect for not longer than five years, except for any tank specified in subdivision

(b) of Section 7681.

(c) In the case of a tank specified in subdivision (b) of Section 7681, the permit shall remain in effect as long as the tank is in compliance with applicable provisions of this part and regulations contained in Title 8 of the California Administrative Code. A new inspection and permit for operation shall be required whenever there is a change in ownership and permanent location of the tank or there is an alteration or change in the tank which affects the tank's safety.

This subdivision applies to any permit in effect on the effective date of this subdivision as well as to any permit issued after such date. Notwithstanding any other provision of law, an insurer is not liable for any permit issued prior to the effective date of this subdivision for any tank specified in subdivision (b) of Section 7681 for any period of time exceeding the period for which the last permit was issued.

(d) In the case of a boiler, the permit shall continue in effect for a period which is not longer than one year.

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## CHAPTER 1280

An act to add Section 32177.5 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 29, 1980. Filed with  
Secretary of State September 30, 1980.]

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

SECTION 1. Section 32177.5 is added to the Revenue and Taxation Code, to read:

32177.5. No tax shall be imposed upon the sale of alcoholic beverages, except beer, by wine growers, brandy manufacturers, distilled spirits manufacturers, rectifiers, importers, and wine and distilled spirits wholesalers to the following listed instrumentalities of the armed forces of the United States organized under Army, Air Force, Navy, Marine Corps, or Coast Guard regulations and located upon territory within the geographical boundaries of the state:

(a) Army, Air Force, Navy, Marine Corps and Coast Guard exchanges.

(b) Officers', noncommissioned officers', and enlisted men's clubs or messes.

If any wine grower, manufacturer, rectifier, importer or wholesaler has paid the tax on alcoholic beverages, except beer, thereafter sold to an instrumentality of the armed forces so located, the taxpayer may claim and shall be allowed credit with respect to the tax so paid in any report filed or assessment paid under this part.

SEC. 2. The Legislative Analyst shall report to the Legislature on

or before January 1, 1983, regarding the economic effects of the act.

SEC. 3. This act shall remain in effect only until January 1, 1984, or until the first day of the first calendar month commencing more than 60 days after the existing federal laws are amended by Congress to provide for state and local taxation of sales to federal installations, whichever occurs first, and shall have no force or effect on or after such date, unless a later enacted statute, which is chaptered before January 1, 1984, deletes or extends such date.

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.

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## CHAPTER 1281

An act to add Section 2885 to the Civil Code, to amend Section 674 of the Code of Civil Procedure, and to add Sections 27297.5 and 27387 to the Government Code, relating to liens on real property.

[Approved by Governor September 29, 1980. Filed with  
Secretary of State September 30, 1980.]

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

SECTION 1. Section 2885 is added to the Civil Code, to read:

2885. Any state agency, upon recording a state tax lien against real property, shall mail written notice of the recordation to the tax debtor. Failure to notify the tax debtor shall not affect the constructive notice otherwise imparted by recordation, nor shall it affect the force, effect, or priority otherwise accorded such tax lien.

SEC. 2. Section 674 of the Code of Civil Procedure is amended to read:

674. (a) An abstract of the judgment or decree of any court of this state, including a judgment entered pursuant to Chapter 1 (commencing with Section 1710.10) of Title 11 of Part 3, or a judgment of any court sitting as a small claims court, or any court of record of the United States, the enforcement of which has not been stayed on appeal or pursuant to Section 1710.50, certified by the clerk, judge or justice of the court where such judgment or decree was rendered, may be recorded with the recorder of any county and from such recording the judgment or decree becomes a lien upon all the real property of the judgment debtor, not exempt from execution, in such county, owned by him at the time, or which he may afterward and before the lien expires, acquire. Such lien continues for 10 years from the date of the entry of the judgment or decree unless the enforcement of the judgment or decree is stayed on appeal or pursuant to Section 1710.50 by the execution of a

sufficient undertaking or the deposit in court of the requisite amount of money as provided in this code, or by the statutes of the United States, in which case the lien of the judgment or decree, and any lien or liability now existing or hereafter created by virtue of an attachment that has been issued and levied in the action, unless otherwise by statutes of the United States provided, ceases, or upon an undertaking on release of attachment, or unless the judgment or decree is previously satisfied, or the lien otherwise discharged. The abstract above mentioned shall contain the following: title of the court and cause and number of the action; date of entry of the judgment or decree; names of the judgment debtor and of the judgment creditor and the address at which the summons was either personally served or mailed to the judgment debtor or the judgment debtor's attorney of record; amount of the judgment or decree, and where entered in judgment book or minutes. It shall also contain the social security number or driver's license number or both of the judgment debtor if they are known to the judgment creditor. If such numbers are not known to the judgment creditor, that fact shall be indicated on the abstract of judgment.

(b) An order made pursuant to subdivision (b) of Section 908 of the Welfare and Institutions Code shall be considered a judgment for the purposes of subdivision (a) of this section.

(c) With respect to real property containing a dwelling house judicially determined to be exempt from levy of execution pursuant to the provisions of Section 690.31, as distinguished from property subject to a declared homestead created pursuant to Title 5 (commencing with Section 1237) of Part 4 of Division 2 of the Civil Code, a judgment lien created pursuant to subdivision (a) of this section shall attach to such real property notwithstanding the exemption provided by Section 690.31.

SEC. 3. Section 27297.5 is added to the Government Code, to read:

27297.5. (a) Upon recordation of an abstract of judgment or other document creating an involuntary lien affecting the title to real property, the county recorder shall, whenever the recorded document evidencing such lien contains the address of the person or persons against whom such involuntary lien is recorded or the address of the judgment debtor's attorney of record, within 10 days notify such person or persons or attorney of record by mail of such recordation. Notwithstanding the forgery provisions of this subdivision the failure of the county recorder to notify the person or persons against whom such lien is recorded shall not affect the constructive notice otherwise imparted by recordation, nor shall it affect the force, effect, or priority otherwise accorded such a lien.

(b) As used in this section, "involuntary lien" means a lien which the person or persons against whom such lien is recorded has not executed or has not consented to by contract.

(c) The provisions of this section shall not apply to the recordation of any documents relating to an involuntary lien in favor of the

federal government pursuant to federal law or statute nor to the recordation of any state tax lien against real property.

SEC. 4. Section 27387 is added to the Government Code, to read:

27387. In addition to any other fee, the county recorder shall collect a fee from any lienor, other than a governmental entity, for the recordation of an abstract of judgment or other document creating an involuntary lien within the meaning of Section 27297 affecting title to real property. The fee shall not exceed the actual cost to the recorder of providing the notice required by Section 27297.5.

SEC. 5. 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.

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## CHAPTER 1282

An act to amend Section 1151.2 of the Labor Code, relating to agricultural labor relations.

[Approved by Governor September 29, 1980 Filed with  
Secretary of State September 30, 1980.]

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

SECTION 1. Section 1151.2 of the Labor Code is amended to read:

1151.2. (a) No person shall be excused from attending and testifying, or from producing books, records, correspondence, documents, or other evidence in obedience to the subpoena of the board, on the ground that the testimony or evidence required of him may tend to incriminate him or subject him to a penalty or forfeiture. However, no individual shall be prosecuted or subjected to any penalty or forfeiture for or on account of any transaction, matter, or thing concerning which he is compelled, after having claimed his privilege against self-incrimination, to testify or produce evidence, except that such individual so testifying shall not be exempt from prosecution and punishment for perjury committed in so testifying.

(b) No individual shall be granted immunity pursuant to subdivision (a) unless, at least 10 calendar days prior thereto, the board has given written notice, by registered mail, to the district attorney of each county who may have reasonable grounds for objecting to such grant of immunity. Such notice shall specify the

subject matter of the inquiries to which the witness' answers are to be immunized from use.

The board may not grant immunity in any case where it finds that a district attorney has reasonable grounds for objecting to such grant of immunity provided that the board may disregard objections that are not accompanied by the declaration of the district attorney that he or she is familiar with the notice and which sets forth the grounds for resisting such grant of immunity.

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## CHAPTER 1283

An act to amend Section 41512 of the Health and Safety Code, relating to air pollution, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1980. Filed with  
Secretary of State September 30, 1980 ]

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

**SECTION 1.** Section 41512 of the Health and Safety Code is amended to read:

**41512.** (a) The state board or a district board may adopt, by regulation, after a public hearing, a schedule of fees not exceeding the estimated cost of planning, preliminary evaluation, sampling, sample analysis, calculations, and report preparation with respect to samples of emissions secured from air pollution emission sources. However, such fees may be imposed or assessed only when such samples are required to determine compliance with permit conditions or with any state or local law, order, rule, or regulation relating to air pollution. Such fees shall not include charges for the reasonable time exclusively spent by the owner or operator of the source constructing testing facilities or preparing for such testing. The failure to pay any such fee in a timely manner shall constitute grounds for the revocation or suspension, and may be made a condition for the issuance, of any permit. Any such revocation or suspension shall be in accordance with the procedures set forth in Sections 42304 to 42309, inclusive.

(b) Nothing contained in this part shall be construed to include or restrict the use of construction equipment such as portable sandblasting equipment or portable spraying or spray painting equipment, or any similar equipment, used on a temporary basis in connection with new construction, or on maintenance or repairs of existing structures, machinery, or equipment; provided, such equipment is operated in accordance with the requirements of this division and applicable district and state board rules and regulations.

(c) Where testing to demonstrate compliance with permit conditions or with any state or local law, order, rule, or regulation

relating to air pollution is required by the state board, the state board, not later than April 1, 1981, shall establish procedures under which the operator may request that such testing be performed by an independent testing service. The state board may, for good cause, reject such a request.

SEC. 2. Section 41512 of the Health and Safety Code, as amended by Section 1 of this act, is amended to read:

41512. (a) The state board or a district board may adopt, by regulation, after a public hearing, a schedule of fees not exceeding the estimated cost of planning, preliminary evaluation, sampling, sample analysis, calculations, and report preparation with respect to samples of emissions secured from air pollution emission sources. However, such fees may be imposed or assessed only when such samples are required to determine compliance with permit conditions or with any state or local law, order, rule, or regulation, relating to air pollution. Such fees shall not include charges for the reasonable time exclusively spent by the owner or operator of the source constructing testing facilities or preparing for such testing. The failure to pay any such fee in a timely manner shall constitute grounds for the revocation or suspension, and may be made a condition for the issuance, of any permit. Any such revocation or suspension shall be in accordance with the procedures set forth in Sections 42304 to 42309, inclusive.

(b) Nothing contained in this part shall be construed to include or restrict the use of construction equipment, including, but not limited to, portable sandblasting equipment or portable spraying or spray painting equipment, or any similar equipment, used on a temporary basis in connection with new construction, or on maintenance or repairs of existing structures, machinery, or equipment; provided, such equipment is operated in accordance with the requirements of this division and applicable district and state board rules and regulations.

(c) Where testing to demonstrate compliance with permit conditions or with any state or local law, order, rule, or regulation, relating to air pollution is required by the state board, the state board, not later than April 1, 1981, shall establish procedures under which the operator may request that such testing be performed by an independent testing service. The state board may, for good cause, reject such a request.

SEC. 3. It is the intent of the Legislature, if this bill and Senate Bill 1707 are both chaptered and become effective January 1, 1981, both bills amend Section 41512 of the Health and Safety Code, and this bill is chaptered after Senate Bill 1707, that Section 41512 of the Health and Safety Code, as amended by Section 1 of this act, shall remain operative until the effective date of Senate Bill 1707, and that on the effective date of Senate Bill 1707 Section 41512 of the Health and Safety Code, as amended by Section 1 of this act, be further amended in the form set forth in Section 2 of this act to incorporate the changes in Section 41512 proposed by Senate Bill 1707. Therefore,

if this bill and Senate Bill 1707 are both chaptered and become effective on or before January 1, 1981, and Senate Bill 1707 is chaptered before this bill and amends Section 41512, Section 2 of this act shall become operative on the effective date of Senate Bill 1707.

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 procedural problems in the enforcement of air pollution laws at the earliest opportunity, it is necessary that this act take effect immediately.

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## CHAPTER 1284

An act to amend Sections 35146, 72122, and 92030 of the Education Code, and to amend Sections 11120, 11125.1, 11126, 11128, 54956, 54957, 54957.1, 54957.2, and 54957.6 of, and to add Sections 11121.7, 11121.9, 11124.1, 11125.2, 11126.1, 11126.3, 11126.7, 11130.7, 54952.7, 54953.5, 54956.6, 54957.5 and 54957.7 to, the Government Code, relating to open and public meetings.

[Approved by Governor September 29, 1980 Filed with  
Secretary of State September 30, 1980 ]

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

SECTION 1. Section 35146 of the Education Code is amended to read:

35146. Notwithstanding the provisions of Section 35145 of this code and Section 54950 of the Government Code, the governing body of a school district shall, unless a request by the parent has been made pursuant to this section, hold closed sessions if the board is considering the suspension of, or disciplinary action or any other action except expulsion in connection with any pupil of the school district, if a public hearing upon such question would lead to the giving out of information concerning school pupils which would be in violation of Article 5 (commencing with Section 49073) of Chapter 6.5 of Part 27 of this code.

Before calling such closed session of the governing board of the district to consider these matters, the governing board of the district shall, in writing, by registered or certified mail or by personal service, if the pupil is a minor, notify the pupil and his or her parent or guardian, or the pupil if the pupil is an adult, of the intent of the governing board of the district to call and hold such closed session. Unless the pupil, or his or her parent, or guardian shall, in writing, within 48 hours after receipt of such written notice of intention, request that the hearing of the governing board be held as a public meeting, then the hearing to consider such matters shall be

conducted by the governing board in closed session. If such written request is served upon the clerk or secretary of the governing board, the meeting shall be public except that any discussion at such meeting that might be in conflict with the right to privacy of any pupil other than the pupil requesting the public meeting or on behalf of whom such meeting is requested, shall be in closed session. Whether the matter is considered at a closed session or at a public meeting, the final action of the governing board of the school district shall be taken at a public meeting and the result of such action shall be a public record of the school district.

**SEC. 2.** Section 72122 of the Education Code is amended to read: 72122. Notwithstanding the provisions of Section 72121 of this code and Section 54950 of the Government Code, the governing body of a community college district shall, unless a request by the parent has been made pursuant to this section, hold closed sessions if the board is considering the suspension of, or disciplinary action or any other action except expulsion in connection with any student of the community college district, if a public hearing upon such question would lead to the giving out of information concerning students which would be in violation of Article 5 (commencing with Section 76240) of Chapter 1.5 of Part 47 of this code.

Before calling such closed session of the governing board of the district to consider these matters, the governing board of the district shall, in writing, by registered or certified mail or by personal service, if the student is a minor, notify the student and his or her parent or guardian, or the student if the student is an adult, of the intent of the governing board of the district to call and hold such closed session. Unless the student, or his or her parent, or guardian shall, in writing, within 48 hours after receipt of such written notice of intention, request that the hearing of the governing board be held as a public meeting, then the hearing to consider such matters shall be conducted by the governing board in closed session. If such written request is served upon the clerk or secretary of the governing board, the meeting shall be public except that any discussion at such meeting that might be in conflict with the right to privacy of any student other than the student requesting the public meeting or on behalf of whom such meeting is requested, shall be in closed session. Whether the matter is considered at a closed session or at a public meeting, the final action of the governing board of the school district shall be taken at a public meeting and the result of such action shall be a public record of the school district.

**SEC. 3.** Section 92030 of the Education Code is amended to read: 92030. All meetings of the Regents of the University of California shall, except as otherwise provided in this section, be open to the public. The corporation shall establish the time and place for holding regular meetings, but may, as occasioned by necessity, hold special meetings. Public notice shall be given for such meetings. Such notice shall be given by notifying any newspaper of general circulation or any television or radio station, and shall be delivered personally or

by mail so that the notice may be published or broadcast at least 24 hours before the time of such meeting.

The Regents of the University of California may also hold closed sessions when it meets to consider or discuss: (a) matters relating to or affecting the national security; (b) the conferring of honorary degrees or other honors or commemorations; (c) those matters involving gifts, devises and bequests; (d) matters involving purchase and sale of investments for endowment and pension funds; (e) matters involving litigation when discussion in open session concerning such matters would adversely affect or be detrimental to the public interest; (f) matters involving acquisition and disposition of property; (g) matters relating to the appointment, employment, performance, compensation, or dismissal of officers and employees, excluding individual regents other than the president of the university; and (h) matters relating to complaints or charges brought against officers or employees of the university, excluding individual regents other than the president of the university unless such officer or employee requests a public hearing. There also may be excluded from any such public or closed meeting during the examination of a witness, any or all other witnesses in the matter being investigated.

SEC. 4. Section 11120 of the Government Code is amended to read:

11120. It is the public policy of this state that public agencies exist to aid in the conduct of the people's business and the proceedings of public agencies be conducted openly so that the public may remain informed.

In enacting this article the Legislature finds and declares that it is the intent of the law that actions of state agencies be taken openly and that their deliberation be conducted openly.

This article shall be known and may be cited as the State Agency Open Meeting Act.

SEC. 5. Section 11121.7 is added to the Government Code, to read:

11121.7. (a) As used in this article, "state agency" also means any board, commission, committee, or similar multimember body on which a member of a body which is a state agency pursuant to Section 11121 or 11121.5 serves in his or her official capacity as a representative of such state agency and which is supported, in whole or in part, by funds provided by the state agency, whether such body is organized and operated by the state agency or by a private corporation.

(b) As used in this article, "state agency" also means any advisory board, advisory commission, advisory committee, advisory subcommittee, or similar multimember advisory body of a body which is a state agency pursuant to Section 11121 or 11121.5 or subdivision (a) of this section, if created by formal action of the state agency or of any member of the state agency, and if the advisory body so created consists of three or more members.

(c) Notice of a meeting of a state agency which complies with subdivision (a) of Section 11125, shall also constitute notice of an advisory body of that state agency, provided that the business to be discussed by the advisory body is covered by the agenda of the meeting of the agency, provided the specific time and place of the advisory body's meeting is announced during the open and public state agency's meeting, and provided that the advisory body's meeting is conducted within a reasonable time of, and nearby, the meeting of the state agency.

(d) The provisions of subdivision (a) of Section 11125 which require a specific agenda, and the provisions of subdivision (c) of such section, shall not apply to a meeting of a body which is a state agency pursuant to this section. However, except as provided with respect to advisory bodies under subdivision (c) of this section, notice of a meeting of a state agency as defined by this section shall be required pursuant to subdivision (a) of Section 11125, and the notice shall include a brief, general description of the business to be discussed, and the name, address, and telephone number of a person who can provide further information prior to the meeting.

(e) A state agency, as defined by subdivision (a) or (b), may conduct closed sessions upon the same grounds as a state agency as defined by Section 11121 or Section 11121.5.

SEC. 6. Section 11121.9 is added to the Government Code, to read:

11121.9. A copy of this article shall be provided to each member of any state agency upon his or her appointment to membership or assumption of office.

SEC. 7. Section 11124.1 is added to the Government Code, to read:

11124.1. Any person attending an open and public meeting of the state agency shall have the right to record the proceedings on a tape recorder in the absence of a reasonable finding of the state agency that such recording constitutes, or would constitute, a disruption of the proceedings.

SEC. 8. Section 11125.1 of the Government Code is amended to read:

11125.1. (a) Notwithstanding Section 6255 or any other provisions of law, agendas of public meetings and other writings, when distributed to all, or a majority of all, of the members of a state agency by a member, officer, employee, or agent of such agency for discussion or consideration at a public meeting of such agency, are public records under the Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) as soon as distributed, and shall be made available pursuant to Sections 6253 and 6256. However, this section shall not include any writing exempt from public disclosure under Section 6253.5, 6254, or 6254.7.

(b) Writings which are public records under subdivision (a) and which are distributed prior to commencement of a public meeting shall be made available for public inspection upon request prior to

commencement of such meeting.

(c) Writings which are public records under subdivision (a) and which are distributed during a public meeting and prior to commencement of their discussion at such meeting shall be made available for public inspection prior to commencement of, and during, their discussion at such meeting.

(d) Writings which are public records under subdivision (a) and which are distributed during their discussion at a public meeting shall be made available for public inspection immediately or as soon thereafter as is practicable.

(e) Nothing in this section shall be construed to prevent a state agency from charging a fee or deposit for a copy of a public record pursuant to Section 6257. The writings described in subdivisions (b), (c), and (d) are subject to the requirements of the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall not be construed to exempt from public inspection any record required to be disclosed by that act, or to limit the public's right to inspect any record covered by that act. This section shall not apply to any writings properly discussed in a closed session of the state agency. Nothing in this article shall be construed to require a state agency to place any paid advertisement or any other paid notice in any publication.

(f) "Writing" for purposes of this section means "writing" as defined under Section 6252.

SEC. 9. Section 11125.2 is added to the Government Code, to read:

11125.2. Any state agency shall publicly report at a subsequent public meeting any action taken, and any roll call vote thereon, to appoint, employ, or dismiss a public employee arising out of any closed session of the state agency.

SEC. 10. Section 11126 of the Government Code is amended to read:

11126. Nothing contained in this article shall be construed to prevent a state agency from holding closed sessions during a regular or special meeting to consider the appointment, employment, or dismissal of a public employee or to hear complaints or charges brought against such employee by another person or employee unless such employee requests a public hearing. As a condition to holding a closed session on the complaints or charges to consider disciplinary action or to consider dismissal, such employee shall be given written notice of his or her right to have a public hearing rather than a closed session, which notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding a regular or special meeting. If notice is not given, any disciplinary or other action taken against any employee at such closed session shall be null and void. The state agency also may exclude from any such public or closed meeting, during the examination of a witness, any or all other witnesses in the matter being investigated by the state agency. Following the public hearing

or closed session, the agency may deliberate on the decision to be reached in a closed session.

For the purposes of this section, the term "employee" shall not include any person who is elected to, or appointed to a public office by, any state agency; provided, however, that officers of the California State University and Colleges who receive compensation for their services other than per diem and ordinary and necessary expenses shall, when engaged in such capacity, be considered employees.

Nothing in this article shall be construed to prevent state agencies, which administer the licensing of persons engaging in businesses or professions, from holding closed sessions to prepare, approve, grade, or administer examinations.

Nothing in this article shall be construed to prevent an advisory body of a state agency which administers the licensing of persons engaged in businesses or professions from conducting a closed session to discuss matters which the advisory body has found would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting, provided that the advisory body does not include a quorum of the members of the state agency it advises. Such matters may include review of an applicant's qualifications for licensure and an inquiry specifically related to the state agency's enforcement program concerning an individual licensee or applicant where the inquiry occurs prior the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state agency.

Nothing in this article shall be construed to prohibit a state agency from holding a closed session to deliberate on a decision to be reached based upon evidence introduced in a proceeding required to be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code or similar provision of law.

Nothing in this article shall be construed to prevent any state agency from holding a closed session to consider matters affecting the national security.

Nothing in this article shall be construed to grant a right to enter any correctional institution or the grounds of a correctional institution where that right is not otherwise granted by law, nor shall anything in this article be construed to prevent a state agency from holding a closed session when considering and acting upon the determination of a term, parole, or release of any individual or other disposition of an individual case, or if public disclosure of the subjects under discussion or consideration is expressly prohibited by statute.

Nothing in this article shall be construed to prevent any closed session to consider the conferring of honorary degrees, or gifts, donations, and bequests which the donor or proposed donor has requested in writing to be kept confidential.

Nothing in this article shall be construed to prevent the Alcoholic Beverage Control Appeals Board from holding a closed session for

the purpose of holding a deliberative conference as provided in Section 11125 of the Government Code.

Nothing in this article shall be construed to prevent the Trustees of the California State University and Colleges from holding closed sessions dealing with site selection for such state colleges.

Nothing in this article shall be construed to prevent the California Postsecondary Education Commission from holding closed sessions to consider matters pertaining to the appointment or termination of the Director of the California Postsecondary Education Commission.

Nothing in this article shall be construed to prevent the Franchise Tax Board from holding closed sessions for the purpose of discussion of confidential tax returns or data the public disclosure of which is prohibited by law.

Nothing in this article shall be construed to prevent the Board of Corrections from holding closed sessions when considering reports of crime conditions under the provisions of Section 6027 of the Penal Code.

Nothing in this article shall be construed to prevent the State Air Resources Board from holding closed sessions when considering the proprietary specifications and performance data of manufacturers.

Nothing in this article shall be construed to prevent the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering investment decisions.

Nothing in this article shall be construed to prevent the Teachers' Retirement Board of the State Teachers' Retirement System from holding closed sessions when considering investment decisions.

Nothing in this article shall be construed to prevent the governing body of a state agency, or such boards, commissions, administrative officers, or other representatives as may properly be designated by law or by such state agency, from holding closed sessions with its representatives at any time in discharging its responsibilities under Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of this code as such sessions relate to salaries, salary schedules, or compensation paid in the form of fringe benefits. For the purposes enumerated in the preceding sentence, a state agency may also meet with a state conciliator who has intervened in the proceedings.

Notwithstanding any other provision of law, any meeting of the Public Utilities Commission at which the rates of entities under the commission's jurisdiction are changed shall be open and public.

Nothing in this article shall be construed to prevent the Public Utilities Commission from holding closed sessions to deliberate on the institution of proceedings, disciplinary actions against regulated utilities, or litigation.

Nothing in this article shall be construed to prevent the examining committee established by the Board of Forestry pursuant to Section 763 of the Public Resources Code from conducting a closed session to consider disciplinary action against an individual professional forester prior to the filing of an accusation against the forester pursuant to Section 11503.

Nothing in this article shall be construed to prevent an administrative committee established by the Board of Accountancy pursuant to Section 5020 of the Business and Professions Code from conducting a closed session to consider disciplinary action against an individual accountant prior to the filing of an accusation against the accountant pursuant to Section 11503. Nothing in this article shall be construed to prevent an examining committee established by the Board of Accountancy pursuant to Section 5023 of the Business and Professions Code from conducting a closed hearing to interview an individual applicant or accountant regarding the applicant's qualifications.

SEC. 11. Section 11126 of the Government Code is amended to read:

11126. Nothing contained in this article shall be construed to prevent a state agency from holding closed sessions during a regular or special meeting to consider the appointment, employment or dismissal of a public employee or to hear complaints or charges brought against such employee by another person or employee unless such employee requests a public hearing. As a condition to holding a closed session on the complaints or charges to consider disciplinary action or to consider dismissal such employee shall be given written notice of his or her right to have a public hearing rather than a closed session, which notice shall be delivered to the employee personally or by mail at least 24 hours before the time for holding a regular or special meeting. If notice is not given, any disciplinary or other action taken against any employee at such closed session shall be null and void. The state agency also may exclude from any such public or private meeting, during the examination of a witness, any or all other witnesses in the matter being investigated by the state agency. Following the public hearing or closed session the agency may deliberate on the decision to be reached in a closed session.

For the purposes of this section, the term "employee" shall not include any person who is elected to, or appointed to a public office by, any state agency; provided, however, that officers of the California State University and Colleges who receive compensation for their services other than per diem and ordinary and necessary expenses shall, when engaged in such capacity, be considered employees.

Nothing in this article shall be construed to prevent state agencies, which administer the licensing of persons engaging in businesses or professions, from holding closed sessions to prepare, approve, grade or administer examinations.

Nothing in this article shall be construed to prevent an advisory body of a state agency which administers the licensing of persons engaged in businesses or professions from conducting a closed session to discuss matters which the advisory body has found would constitute an unwarranted invasion of the privacy of an individual licensee or applicant if discussed in an open meeting, provided that

the advisory body does not include a quorum of the members of the state agency it advises. Such matters may include review of an applicant's qualifications for licensure and an inquiry specifically related to the state agency's enforcement program concerning an individual licensee or applicant where the inquiry occurs prior to the filing of a civil, criminal, or administrative disciplinary action against the licensee or applicant by the state agency.

Nothing in this article shall be construed to prohibit a state agency from holding a closed session to deliberate on a decision to be reached based upon evidence introduced in a proceeding required to be conducted pursuant to Chapter 5 (commencing with Section 11500) of Part 1, Division 3, Title 2 of the Government Code or similar provision of law. Nothing in this article shall be construed to prevent any state agency from holding a closed session to consider matters affecting the national security.

Nothing in this article shall be construed to grant a right to enter any correctional institution or the grounds of a correctional institution where that right is not otherwise granted by law, nor shall anything in this article be construed to prevent a state agency from holding a closed session when considering and acting upon the determination of a term, parole, or release of any individual or other disposition of an individual case, or if public disclosure of the subjects under discussion or consideration is expressly prohibited by statute.

Nothing in this article shall be construed to prevent any closed session to consider the conferring of honorary degrees, or gifts, donations and bequests which the donor or proposed donor has requested in writing to be kept confidential.

Nothing in this article shall be construed to prevent the Alcoholic Beverage Control Appeals Board from holding a closed session for the purpose of holding a deliberative conference as provided in Section 11125 of the Government Code.

Nothing in this article shall be construed to prevent the Trustees of the California State Colleges from holding closed sessions dealing with site selection for such state colleges.

Nothing in this article shall be construed to prevent the California Postsecondary Education Commission from holding closed sessions to consider matters pertaining to the appointment or termination of the Director of the California Postsecondary Education Commission.

Nothing in this article shall be construed to prevent the Franchise Tax Board from holding closed sessions for the purpose of discussion of confidential tax returns or data the public disclosure of which is prohibited by law, or from considering matters pertaining to the appointment or removal of the executive officer of the Franchise Tax Board.

Nothing in this article shall be construed to prevent the Board of Corrections from holding closed sessions when considering reports of crime conditions under the provisions of Section 6027 of the Penal Code.

Nothing in this article shall be construed to prevent the State Air

Resources Board from holding closed sessions when considering the proprietary specifications and performance data of manufacturers.

Nothing in this article shall be construed to prevent the Board of Administration of the Public Employees' Retirement System from holding closed sessions when considering investment decisions.

Nothing in this article shall be construed to prevent the Teachers' Retirement Board of the State Teachers' Retirement System from holding closed sessions when considering investment decisions.

Nothing in this article shall be construed to prevent the governing body of a state agency, or such boards, commissions, administrative officers, or other representatives as may properly be designated by law or by such governing body, from holding closed sessions with its representatives at any time in discharging its responsibilities under Chapter 10 (commencing with Section 3500) of Division 4 of Title 1 of this code as such sessions relate to salaries, salary schedules, or compensation paid in the form of fringe benefits. For the purposes enumerated in the preceding sentence, a state agency may also meet with a state conciliator who has intervened in the proceedings, providing that a quorum of the state agency is present. For purposes of this paragraph, a state agency may not otherwise meet without using a designated representative, but it may appoint from its membership a member or members to act as its designated representative, with whom it may meet in closed session.

Notwithstanding any other provision of law, any meeting of the Public Utilities Commission at which the rates of entities under the commission's jurisdiction are changed shall be open and public.

Nothing in this article shall be construed to prevent the Public Utilities Commission from holding closed sessions to deliberate on the institution of proceedings, disciplinary actions against regulated utilities, or litigation.

Nothing in this article shall be construed to prevent the examining committee established by the Board of Forestry pursuant to Section 763 of the Public Resources Code from conducting a closed session to consider disciplinary action against an individual professional forester prior to the filing of an accusation against the forester pursuant to Section 11503.

Nothing in this article shall be construed to prevent an administrative committee established by the Board of Accountancy pursuant to Section 5020 of the Business and Professions Code from conducting a closed session to consider disciplinary action against an individual accountant prior to the filing of an accusation against the accountant pursuant to Section 11503. Nothing in this article shall be construed to prevent an examining committee established by the Board of Accountancy pursuant to Section 5023 of the Business and Professions Code from conducting a closed hearing to interview an individual applicant or accountant regarding the applicant's qualifications.

SEC. 12. Section 11126.1 is added to the Government Code, to read:

11126.1. The state agency shall designate a clerk or other officer or employee of the state agency, who shall then attend each closed session of the state agency and keep and enter in a minute book a record of topics discussed and decisions made at the meeting. The minute book made pursuant to this section is not a public record subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be kept confidential. The minute book shall be available to members of the state agency or, if a violation of this chapter is alleged to have occurred at a closed session, to a court of general jurisdiction wherein the state agency lies. Such minute book may, but need not, consist of a recording of the closed session.

SEC. 13. Section 11126.3 is added to the Government Code, to read:

11126.3. Prior to holding any closed session, the state agency shall state the general reason or reasons for the closed session, and cite the statutory or other legal authority under which the session is being held. In the closed session, the state agency may consider only those matters covered in its statement. The statement shall be made as part of the notice provided for the meeting. Nothing in this section shall require or authorize the giving of names or other information which would constitute an invasion of privacy or otherwise unnecessarily divulge the particular facts concerning the closed session.

SEC. 14. Section 11126.7 is added to the Government Code, to read:

11126.7. No fees may be charged by a state agency for carrying out any provision of this article, except as specifically authorized pursuant to this article.

SEC. 15. Section 11128 of the Government Code is amended to read:

11128. All closed sessions of a state agency shall be held only during a regular or special meeting of the agency.

SEC. 16. Section 11130.7 is added to the Government Code, to read:

11130.7. Each member of a state agency who attends a meeting of such agency in violation of any provision of this article, with knowledge of the fact that the meeting is in violation thereof, is guilty of a misdemeanor.

SEC. 17. Section 54952.7 is added to the Government Code, to read:

54952.7. A legislative body of a local agency may require that a copy of this chapter be given to each member of the legislative body. An elected legislative body of a local agency may require that a copy of this chapter be given to each member of each legislative body whose members are appointed by or under the authority of the elected legislative body.

SEC. 18. Section 54953.5 is added to the Government Code, to read:

54953.5. Any person attending an open and public meeting of a

legislative body of a local agency shall have the right to record the proceedings on a tape recorder in the absence of a reasonable finding of the legislative body of the local agency that such recording constitutes, or would constitute, a disruption of the proceedings.

SEC. 19. Section 54956 of the Government Code is amended to read:

54956. A special meeting may be called at any time by the presiding officer of the legislative body of a local agency, or by a majority of the members of the legislative body, by delivering personally or by mail written notice to each member of the legislative body and to each local newspaper of general circulation, radio or television station requesting notice in writing. Such notice shall be delivered personally or by mail and shall be received at least 24 hours before the time of such meeting as specified in the notice. The call and notice shall specify the time and place of the special meeting and the business to be transacted. No other business shall be considered at such meetings by the legislative body. Such written notice may be dispensed with as to any member who at or prior to the time the meeting convenes files with the clerk or secretary of the legislative body a written waiver of notice. Such waiver may be given by telegram. Such written notice may also be dispensed with as to any member who is actually present at the meeting at the time it convenes. Notice shall be required pursuant to this section regardless of whether any action is taken at the special meeting.

SEC. 20. Section 54956.6 is added to the Government Code, to read:

54956.6. No fees may be charged by the legislative body of a local agency for carrying out any provision of this chapter, except as specifically authorized by this chapter.

SEC. 21. Section 54957 of the Government Code is amended to read:

54957. Nothing contained in this chapter shall be construed to prevent the legislative body of a local agency from holding closed sessions with the Attorney General, district attorney, sheriff, or chief of police, or their respective deputies, on matters posing a threat to the security of public buildings or a threat to the public's right of access to public services or public facilities, or from holding closed sessions during a regular or special meeting to consider the appointment, employment, or dismissal of a public employee or to hear complaints or charges brought against such employee by another person or employee unless such employee requests a public hearing. The legislative body also may exclude from any such public or closed meeting, during the examination of a witness, any or all other witnesses in the matter being investigated by the legislative body.

For the purposes of this section, the term "employee" shall not include any person elected to office, or appointed to an office by the legislative body of a local agency; provided, however, that nonelective positions of city manager, county administrator, city

attorney, county counsel, or a department head or other similar administrative officer of a local agency shall be considered employee positions; and provided, further that nonelective positions of general manager, chief engineer, legal counsel, district secretary, auditor, assessor, treasurer, or tax collector of any governmental district supplying services within limited boundaries shall be deemed employee positions.

Nothing in this chapter shall be construed to prevent any board, commission, committee, or other body organized and operated by any private organization as defined in Section 54952 from holding closed sessions to consider (a) matters affecting the national security, or (b) the appointment, employment, or dismissal of an employee or to hear complaints or charges brought against such employee by another person or employee unless such employee requests a public hearing. Such body also may exclude from any such public or closed meeting, during the examination of a witness, any or all other witnesses in the matter being investigated by the legislative body.

SEC. 22. Section 54957.1 of the Government Code is amended to read:

54957.1. The legislative body of any local agency shall publicly report at the public meeting during which the closed session is held or at its next public meeting any action taken, and any roll call vote thereon, to appoint, employ, or dismiss a public employee arising out of any closed session of the legislative body.

SEC. 23. Section 54957.2 of the Government Code is amended to read:

54957.2. (a) The legislative body of a local agency may, by ordinance or resolution, designate a clerk or other officer or employee of the local agency who shall then attend each closed session of the legislative body and keep and enter in a minute book a record of topics discussed and decisions made at the meeting. The minute book made pursuant to this section is not a public record subject to inspection pursuant to the California Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1), and shall be kept confidential. The minute book shall be available only to members of the legislative body or, if a violation of this chapter is alleged to have occurred at a closed session, to a court of general jurisdiction wherein the local agency lies. Such minute book may, but need not, consist of a recording of the closed session.

(b) An elected legislative body of a local agency may require that each legislative body all of whose members are appointed by or under the authority of the elected legislative body keep a minute book as prescribed under subdivision (a).

SEC. 24. Section 54957.5 is added to the Government Code, to read:

54957.5. (a) Notwithstanding Section 6255 or any other provisions of law, agendas of public meetings and other writings, when distributed to all, or a majority of all, of the members of a

legislative body of a local agency by a member, officer, employee, or agent of such body for discussion or consideration at a public meeting of such body, are public records under the Public Records Act (Chapter 3.5 (commencing with Section 6250) of Division 7 of Title 1) as soon as distributed, and shall be made available pursuant to Sections 6253 and 6256. However, this section shall not include any writing exempt from public disclosure under Section 6253.5, 6254, or 6254.7.

(b) Writings which are public records under subdivision (a) and which are distributed prior to commencement of a public meeting shall be made available for public inspection upon request prior to commencement of such meeting.

(c) Writings which are public records under subdivision (a) and which are distributed during a public meeting and prior to commencement of their discussion at such meeting shall be made available for public inspection prior to commencement of, and during, their discussion at such meeting.

(d) Writings which are public records under subdivision (a) and which are distributed during their discussion at a public meeting shall be made available for public inspection immediately or as soon thereafter as is practicable.

(e) Nothing in this section shall be construed to prevent the legislative body of a local agency from charging a fee or deposit for a copy of a public record pursuant to Section 6257. The writings described in subdivisions (b), (c), and (d) are subject to the requirements of the California Public Records Act (Chapter 3.5 (commencing with Section 6250), Division 7, Title 1), and subdivisions (b), (c), and (d) shall not be construed to exempt from public inspection any record covered by that act, or to limit the public's right to inspect any record required to be disclosed by that act. This section shall not apply to any writings properly discussed in a closed session of the legislative body of the local agency.

(f) "Writing" for purposes of this section means "writing" as defined under Section 6252.

SEC. 25. Section 54957.6 of the Government Code is amended to read:

54957.6. Notwithstanding any other provision of law, a legislative body of a local agency may hold closed sessions with its designated representatives prior to and during consultations and discussions with representatives of employee organizations regarding the salaries, salary schedules, or compensation paid in the form of fringe benefits of employees in order to review its position and instruct its designated representatives. For the purposes enumerated in the preceding sentence, a legislative body of a local agency may also meet with a state conciliator who has intervened in the proceedings.

SEC. 26. Section 54957.7 is added to the Government Code, to read:

54957.7. Prior to or after holding any closed session, the legislative body of the local agency shall state the general reason or reasons for

the closed session, and may cite the statutory or other legal authority under which the session is being held. In the closed session, the legislative body may consider only those matters covered in its statement. In the case of special, adjourned, and continued meetings, the statement shall be made as part of the notice provided for the special, adjourned, or continued meeting. Nothing in this section shall require or authorize the giving of names or other information which would constitute an invasion of privacy or otherwise unnecessarily divulge the particular facts concerning the closed session.

SEC. 27. 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. 28. 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. 29. It is the intent of the Legislature, if this bill and Senate Bill 1383 are both chaptered and amend Section 11126 of the Government Code, and this bill is chaptered after Senate Bill 1383, that the amendments to Section 11126 proposed by both bills be given effect and incorporated in Section 11126 in the form set forth in Section 11 of this act. Therefore, Section 11 of this act shall become operative only if this bill and Senate Bill 1383 are both chaptered, both amend Section 11126, and Senate Bill 1383 is chaptered before this bill, in which case Section 10 of this act shall not become operative.

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## CHAPTER 1285

An act to amend Sections 1265.2, 1504, 1509, 1513, 1520, 1520.5, 1522, 1525.5, 1536, 1541, 1550, 1554, and 1560 of, to add Section 1520.3 to, and to repeal Sections 1564, 1565, and 1567.3 of, the Health and Safety Code, and to add Sections 4510 and 4786 to the Welfare and Institutions Code, relating to community care facilities.

[Approved by Governor September 29, 1980 Filed with  
Secretary of State September 30, 1980.]

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

SECTION 1. Section 1265.2 of the Health and Safety Code, as added by Chapter 708 of the Statutes of 1980, is amended to read:

1265.2. A "crime," within the meaning of this chapter, 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, 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. 1.5. Section 1504 of the Health and Safety Code is amended to read:

1504. As used in this chapter, "special permit" means a permit issued by the state department authorizing a community care facility to offer specialized services as designated by the director in regulations.

A special permit shall not be transferable.

SEC. 2. Section 1509 of the Health and Safety Code is amended to read:

1509. The state department shall inspect and license community care facilities, except as otherwise provided in Section 1508. The state department shall inspect and issue a special permit to a community care facility to provide specialized services.

SEC. 3. Section 1513 of the Health and Safety Code is amended to read:

1513. No license or special permit issued pursuant to the provisions of this chapter shall have any property value for sale or exchange purposes and no person, including any owner, agent, or broker, shall sell or exchange any license or special permit for any commercial purpose.

SEC. 4. Section 1520 of the Health and Safety Code is amended to read:

1520. Any person desiring issuance or renewal of a license for a community care facility or a special permit for specialized services under the provisions of this chapter shall file with the state department, pursuant to regulations, an application on forms furnished by the state department, which shall include, but not be limited to:

(a) Evidence satisfactory to the state department of the ability of the applicant to comply with the provisions of this chapter and of rules and regulations promulgated under this chapter by the state department. Where there is an application for renewal of a license, evidence satisfactory to the department that the licensee has substantially complied for the term of the previous license with the provisions of this chapter, and with the rules and regulations promulgated pursuant to this chapter.

(b) Evidence satisfactory to the state department that the applicant is of reputable and responsible character. Such evidence shall include, but not be limited to, a criminal record clearance pursuant to Section 1522, employment history, and character references. If the applicant is a firm, association, organization, partnership, business trust, corporation, or company, like evidence shall be submitted as to the members or shareholders thereof, and the person in charge of the community care facility for which application for issuance or renewal of license or special permit is made.

(c) Evidence satisfactory to the state department that the applicant has sufficient financial resources to maintain the standards of service required by regulations adopted pursuant to this chapter. Day care facilities for children shall only be required to provide such information upon initial application for licensure, and when requested by the department, in writing, explaining the need for such evidence as part of the department's investigative function.

(d) Disclosure of the applicant's prior or present service as an administrator, general partner, corporate officer or director of, or as a person who has held or holds a beneficial ownership of 10 percent or more in, any community care facility or in any facility licensed pursuant to Chapter 1 (commencing with Section 1200) or Chapter 2 (commencing with Section 1250).

(e) Disclosure of any revocation or other disciplinary action taken, or in the process of being taken, against a license held or previously held by the entities specified in subdivision (c).

(f) Such other information as may be required by the state department for the proper administration and enforcement of this chapter.

(g) In implementing this section, the state department shall give due consideration to the functions of each separate licensing category.

SEC. 5. Section 1520.3 is added to the Health and Safety Code, to

read:

1520.3. If an application for a license or special permit indicates, or the state department determines during the application review process, that the applicant previously was issued a license under this chapter or under Chapter 1 (commencing with Section 1200) or Chapter 2 (commencing with Section 1250) and such prior license was revoked within the preceding two years, the state department shall cease any further review of the application until two years shall have elapsed from the date of such revocation. Such cessation of review shall not constitute a denial of the application for purposes of Section 1526 or any other provision of law.

SEC. 6. Section 1520.5 of the Health and Safety Code is amended to read:

1520.5. (a) The Legislature hereby declares it to be the policy of the state to prevent overconcentrations of residential care facilities which impair the integrity of residential neighborhoods. Therefore, the director shall deny an application for a new residential care facility license if the director determines that the location is in such proximity to an existing residential care facility as would result in overconcentration.

(b) As used in this section, "overconcentration" means that if a new license is issued, there will be residential care facilities which are separated by a distance of 300 feet or less, as measured from any point upon the outside walls of the structures housing such facilities. Based on special local needs and conditions, the director may approve a separation distance of less than 300 feet with the approval of the city or county in which the proposed facility will be located.

(c) At least 45 days prior to approving any application for a new residential care facility, the director, or county licensing agency, shall notify, in writing, the city or county planning authority in which the facility will be located, of the proposed location of the facility.

(d) Any city or county may request denial of the license applied for on the basis of overconcentration of residential care facilities.

(e) Nothing in this section authorizes the director, on the basis of overconcentration, to refuse to renew a residential care facility license or to refuse to grant a license upon a change of ownership of an existing residential care facility where there is no change in the location of the facility.

(f) Foster family homes and residential care facilities for the elderly shall not be considered in determining overconcentration of residential care facilities, and license applications for such facilities shall not be denied upon the basis of overconcentration.

SEC. 7. Section 1522 of the Health and Safety Code is amended to read:

1522. (a) Before issuing a license or special permit 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 or any other person specified in subdivision (b) 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 or special permit 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 or any other person specified in subdivision (b) has been convicted of a crime, other than a minor traffic violation, the application shall be denied, unless the director grants an exemption pursuant to subdivision (d).

(b) In addition to the applicant, the provisions of this section shall be applicable to criminal convictions of the following persons:

(1) The facility administrator or manager.

(2) Any person residing or regularly in the facility having routine contact with the residents.

(3) If the applicant is a firm, partnership, association, or corporation, any officer, director, or shareholder with a beneficial ownership interest in the applicant exceeding 10 percent.

(4) Additional officers of the governing body of the applicant, or other persons with a financial interest in the applicant, as determined necessary by the department by regulation. The criteria used in the development of these regulations shall be based on the person's capability to exercise substantial influence over the operation of the facility.

(c) For purposes of this section or any other provision of this chapter, a conviction 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 Sections 1203.4 and 1203.4a 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. For purposes of this section or any other provision of this chapter, the record of a conviction, or a copy thereof certified by the clerk of the court or by a judge of the court in which the conviction occurred, shall be conclusive evidence of the conviction.

(d) After review of the record, the director may grant an exemption from disqualification for a license or special permit pursuant to subdivision (a), if the director has substantial and convincing evidence to support a reasonable belief that the applicant and the person convicted of the crime, if other than the applicant, are of such good character as to justify issuance of the license or special permit.

SEC. 8. Section 1525.5 of the Health and Safety Code is amended to read:

1525.5. The director may issue provisional licenses to operate

community care facilities for facilities which the director determines are in substantial compliance with the provisions of this chapter and the rules and regulations adopted pursuant thereto, provided, that no life safety risks are involved, as determined by the director. In determining whether any life safety risks are involved, the director shall require completion of all applicable fire clearances and criminal record clearances as otherwise required by the department's rules and regulations. Such a provisional license shall expire six months from the date of issuance, or at such earlier time as the director may determine, and may not be renewed. However, the director may extend the term of a provisional license for an additional six months at time of application, if it is determined that more than six months will be required to achieve full compliance with licensing standards due to circumstances beyond the control of the applicant, provided all other requirements for a license have been met.

SEC. 9. Section 1536 of the Health and Safety Code is amended to read:

1536. At least annually, the director shall publish and make available to interested persons a list or lists covering all licensed community care facilities, other than foster family homes providing 24-hour care for six or fewer foster children and family day care homes, the services for which each such facility has been licensed or issued a special permit, and the evaluation rating of each such community care facility, as determined pursuant to Section 1535. A list or lists containing changes in facility ratings shall be published and made available periodically as determined by the director.

As used in this section, "family day care home" means a facility licensed to regularly provide care, protection, and supervision to six or fewer children in the caregiver's own home, exclusive of children who reside at the home, for periods of less than 24 hours per day, while the parents or guardians are away.

SEC. 10. Section 1541 of the Health and Safety Code is amended to read:

1541. The director may bring an action to enjoin the violation or threatened violation of Section 1508 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 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, except that the director shall not be required to allege facts necessary to show or tending to show lack of adequate remedy at law or irreparable damage or loss. Upon a finding by the director that such violations threaten the health or safety of persons in, or served by, a community care facility, the agency contracted with pursuant to Section 1511 may bring an action to enjoin the violation, threatened violation, or continued violation by any community care facility which is located in an area for which it is responsible pursuant to the terms of the contract.

With respect to any and all actions brought pursuant to this section alleging actual violation of Section 1508, the court shall, if it finds such

allegations to be true, issue its order enjoining the community care facility from continuance of the violation.

SEC. 10.5. Section 1550 of the Health and Safety Code, as amended by Chapter 708 of the Statutes of 1980, 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 1522.

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.

SEC. 11. Section 1554 of the Health and Safety Code is amended to read:

1554. Any license, registration, or special permit suspended pursuant to this chapter, and any special permit revoked pursuant to this chapter, may be reinstated pursuant to the provisions of Section 11522 of the Government Code.

SEC. 12. Section 1560 of the Health and Safety Code is amended to read:

1560. The director shall require as a condition precedent to the issuance, or renewal, of any license or special permit for a community

care facility, if the licensee or holder of a special permit handles or will handle any money of a person within the community care facility, that the applicant for the license or special permit or the renewal of the license or special permit file or have on file with the state department a bond issued by a surety company admitted to do business in this state in a sum to be fixed by the state department based upon the magnitude of the operations of the applicant, but which sum shall not be less than one thousand dollars (\$1,000), running to the State of California and conditioned upon his or her faithful and honest handling of the money of persons within the facility.

Every person injured as a result of any improper or unlawful handling of the money of a person of a community care facility may bring an action in a proper court on the bond required to be posted by the licensee pursuant to this section for the amount of damage he or she suffered as a result thereof to the extent covered by the bond.

Whenever the state department determines that the amount of any bond which is filed pursuant to this section is insufficient to adequately protect the money of persons which is being handled, or whenever the amount of any such bond is impaired by any recovery against the bond, the state department may require the licensee to file an additional bond in such amount as necessary to adequately protect the money of persons which is being handled.

The failure of any licensee under this chapter to maintain on file with the state department a bond in the amount prescribed by the director or who embezzles the trust funds of a person in the facility shall constitute cause for the revocation of the license.

The provisions of this section shall not apply if the licensee meets both of the following requirements:

(a) The licensee operates a community care facility which is licensed to care for children including, but not limited to, a family day care home or foster family home.

(b) The licensee handles moneys of persons within the community care facility in amounts less than fifty dollars (\$50) per person and less than five hundred dollars (\$500) for all persons in any month.

SEC. 13. Section 1564 of the Health and Safety Code is repealed.

SEC. 14. Section 1565 of the Health and Safety Code is repealed.

SEC. 15. Section 1567.3 of the Health and Safety Code is repealed.

SEC. 16. Section 4510 is added to the Welfare and Institutions Code, to read:

4510. The State Department of Developmental Services and the State Department of Mental Health shall jointly develop and implement a statewide program for encouraging the establishment of sufficient numbers and types of living arrangements, both in communities and state hospitals, as necessary to meet the needs of persons served by those departments. The departments shall consult with the following organizations in the development of procedures pursuant to this section:

(1) The League of California Cities, the County Supervisors Association of California, and representatives of other local agencies.

(2) Organizations or advocates for clients receiving services in residential care services.

(3) Providers of residential care services.

Each department shall also prepare and transmit to the Legislature on or before March 31 of each year, commencing in 1981, an annual report detailing obstacles to assuring sufficient numbers of living arrangements for persons served by each department, detailing obstacles to providing an adequate quality of care and services to persons served by each department who reside in residential facilities, and containing appropriate recommendations for legislative action.

SEC. 17. Section 4786 is added to the Welfare and Institutions Code, to read:

4786. The director shall develop, establish, and maintain an equitable system of rates of state payment for care and services purchased by the department from community care facilities. Such rate system shall be flexible and reflect the differing costs associated with the differing types and levels of care and services provided.

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## CHAPTER 1286

An act to add Section 24407 to, and to add and repeal Section 23413 of, the Education Code, relating to public retirement systems, and making an appropriation therefor.

[Approved by Governor September 29, 1980. Filed with  
Secretary of State September 30, 1980.]

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

SECTION 1. Section 23413 is added to the Education Code, to read:

23413. Effective January 1, 1981, the school districts and other employing agencies in the state, in addition to all other contributions required by this chapter, on account of liability for benefits pursuant to Section 24407, shall contribute monthly to the Teachers' Retirement Fund 0.108 percent of the total of the salaries upon which members' contributions are based.

This section shall remain in effect only until January 1, 1997, and as of such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1997, deletes or extends such date.

SEC. 2. Section 24407 is added to the Education Code, to read:

24407. The minimum unmodified allowance, exclusive of annuities from accumulated annuity deposit and tax-sheltered contributions, of a person retired prior to January 1, 1981, after the increase provided by Section 24406, shall be an amount equal to at

least sixteen dollars (\$16) per month multiplied by the years of credited service. This guaranteed amount is increased as of October 1, 1980, and shall be reduced by the amount of an unmodified allowance payable from a local system based on service credited by this system. If the retirement was effective at less than age 60, this allowance shall be reduced by one-half of 1 percent for each full month or fraction of a month which would have elapsed until the retirant would have reached age 60. If the retirant elected to have his or her allowance modified under option 2 or 3, the increase in the retirant's allowance shall be modified under the option selected.

The board may make lump sum payments for increases between October 1, 1980, and January 1, 1981.

SEC. 3. The sum of two million seven hundred thousand dollars (\$2,700,000) is hereby appropriated from the General Fund to the Controller for allocation and disbursement to local agencies and school districts pursuant to Section 2231 of the Revenue and Taxation Code to reimburse them for costs mandated by the state and incurred by them pursuant to this act.

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## CHAPTER 1287

An act to amend Sections 4247, 4402, 5019, 5020, and 5021 of the Education Code, to amend Sections 75, 318, 512, 1007, 1017, 1340, 1508.5, 1515, 3520, 3521, 4011, 4055, 5353, 6460, 10211, 14213, and 35006 of, to repeal Section 6509 of, and to repeal and add Section 14000 of, the Elections Code, to amend Sections 24001 and 31105.2 of the Government Code, and to amend Section 34 of Chapter 819 of the Statutes of 1971, relating to elections, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1980. Filed with  
Secretary of State September 30, 1980 ]

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

SECTION 1. Section 4247 of the Education Code is amended to read:

4247. Any elections required to carry out the proposals of a master plan or alterations of the master plan shall be called by the county superintendent of schools of the county in which all or the greater portion of the area is situated at the time recommended by the county committee but shall be held within two years after the date upon which the State Board of Education notifies the county superintendent of its approval.

SEC. 2. Section 4402 of the Education Code is amended to read:

4402. Except as otherwise provided in Section 4375, the county superintendent of schools shall call, in the manner prescribed in Part 4 (commencing with Section 5000), a special election in the

elementary school district or unified school district, or districts included in whole or in part in the plans and recommendations of the county committee or committees for the formation of a unified school district for the purpose of adopting or rejecting the plans and recommendations.

SEC. 2.5. Section 5019 of the Education Code is amended to read:

5019. Except in a school district governed by a board of education provided for in the charter of a city or city and county, in any school district or community college district the county committee on school district organization shall have the power to establish trustee areas, rearrange the boundaries of trustee areas, abolish trustee areas, and increase to seven or decrease to five the number of members of the governing board, or to adopt one of the alternative methods of electing governing board members specified in Section 5030.

Any such proposal may be initiated by the county committee or made to the county committee by a petition signed by at least 2 percent or 50, whichever is the lesser, of the qualified electors residing in the district, or by resolution of the governing board of the district.

When any such proposal is made, the county committee shall call and conduct at least one hearing in the district on the matter. At the conclusion of the hearing, the county committee shall approve or disapprove the proposal.

If the county committee approves the rearrangement of the boundaries of trustee areas for a particular district, the rearrangement of the trustee areas shall be effectuated for the next district election occurring at least 120 days after its approval, unless at least 5 percent of the registered voters of the district sign a petition requesting an election on the proposed rearrangement of trustee area boundaries. Such a petition for an election shall be submitted to the elections official within 60 days of the proposal's adoption by the county committee.

SEC. 3. Section 5020 of the Education Code is amended to read:

5020. The resolution of the county committee approving a proposal to establish or abolish trustee areas or to increase or decrease the number of members of the governing board shall constitute an order of election, and the proposal shall be presented to the electors of the district not later than the next succeeding election for members of the governing board. If a petition requesting an election on a proposal to rearrange trustee area boundaries is filed, containing at least 5 percent of the signatures of the district's registered voters as determined by the elections official, the proposal shall be presented to the electors of the district, not later than the next succeeding election for the members of the governing board; provided, however, that there is sufficient time to place the issue on the ballot. For each proposal there shall be a separate proposition on the ballot. The ballot shall contain the following words:

"For the establishment (or abolition or rearrangement) of trustee

areas in \_\_\_\_\_ (insert name) School District—Yes” and “For the establishment (or abolition or rearrangement) of trustee areas in \_\_\_\_\_ (insert name) School District—No.”

“For increasing the number of members of the governing board of \_\_\_\_\_ (insert name) School District from five to seven—Yes” and “For increasing the number of members of the governing board of \_\_\_\_\_ (insert name) School District from five to seven—No.”

“For decreasing the number of members of the governing board of \_\_\_\_\_ (insert name) School District from seven to five—Yes” and “For decreasing the number of members of the governing board of \_\_\_\_\_ (insert name) School District from seven to five—No.”

If more than one proposal appears on the ballot, all must carry in order for any to become effective.

SEC. 4. Section 5021 of the Education Code is amended to read:

5021. (a) If a proposal for the establishment of trustee areas formulated under Sections 5019 and 5020 is approved by a majority of the voters voting at the election, any affected incumbent board member shall serve out his or her term of office and succeeding board members shall be nominated and elected in accordance with Section 5030. In the event two or more trustee areas are established at such election which are not represented in the membership of the governing board of the school district, or community college district the county committee shall determine by lot the trustee area from which the nomination and election for the next vacancy on the governing board shall be made.

(b) If a proposal for rearrangement of boundaries is approved by a majority of the voters voting on the measure, or by the county committee on school district organization when no election is required, and if the boundary changes affect the board membership, any affected incumbent board member shall serve out his or her term of office and succeeding board members shall be nominated and elected in accordance with Section 5030.

(c) If a proposal for abolishing trustee areas is approved by a majority of the voters voting at the election, the incumbent board members shall serve out their terms of office and succeeding board members shall be nominated and elected at large from the district.

SEC. 5. Section 75 of the Elections Code is amended to read:

75. Unless otherwise specifically provided, no person is eligible to be elected or appointed to an elective office unless that person is a registered voter and otherwise qualified to vote for that office at the time that nomination papers are issued to the person or at the time of the person's appointment.

SEC. 6. Section 318 of the Elections Code is amended to read:

318. No fees may be charged for registration.

SEC. 7. Section 512 of the Elections Code is amended to read:

512. Upon the personal or written application of any person, the county clerk shall, at a fee not to exceed one dollar and fifty cents (\$1.50), provide the applicant with a certified copy of the entries upon the register relating to the applicant.

A certified copy of an uncanceled affidavit of registration is prima facie evidence that the person named in the entry is a voter of the county.

SEC. 7.5. Section 1007 of the Elections Code is amended to read:

1007. (a) Upon receipt of any absentee ballot application which arrives within the proper time the elections official should determine if the signature and residence address on the ballot application appear to be the same as that on the original affidavit of registration. The official may make this signature check upon receiving the voted ballot, but the signature must be compared before the absent voter ballot is canvassed.

(b) If the official deems the applicant entitled to an absent voter's ballot he shall deliver by mail or in person the appropriate ballot.

(c) If the official determines that an application does not contain all of the information prescribed in Section 1002 or 1006, or for any other reason is defective, and the election official is able to ascertain the voter's address, the official shall, within one working day of receiving the application, mail the voter an absent voter's ballot together with a notice. The notice shall inform the voter that the voter's absent voter's ballot shall not be counted unless the applicant provides the official with the missing information or corrects the defects prior to, or at the time of, receipt of the voter's executed absent voter's ballot. The notice shall specifically inform the voter of the information that is required or the reason for the defects in the application, and shall state the procedure necessary to remedy the defective application.

If the voter substantially complies with the requirements contained in the official's notice, the voter's ballot shall be counted.

SEC. 8. Section 1017 of the Elections Code is amended to read:

1017. After the close of the period for requesting absent voter ballots by mail any voter unable to go to the polls because of illness or disability resulting in his or her confinement in a hospital, sanatorium, nursing home, or place of residence, or any voter unable because of a physical handicap to go to his or her polling place or because of such handicap is unable to vote at his or her polling place due to existing architectural barriers at his or her polling place denying him or her physical access to the polling place, voting booth, or voting apparatus or machinery, or any voter unable to go to his or her polling place because of conditions resulting in his or her absence from the precinct on election day may request in a written statement, signed under penalty of perjury that a ballot be delivered to him or her. This ballot shall be delivered by the elections official to any authorized representative of the voter who presents this written statement to the official.

Before delivering the ballot the official shall compare the signature on the request with the signature on the voter's affidavit of registration.

The voter shall mark the ballot, place it in the identification envelope, fill out and sign the envelope and return the ballot,

personally or through the authorized representative, to either the elections official or any polling place within the jurisdiction.

These ballots shall be processed and counted in the same manner as other absentee ballots.

SEC. 9. Section 1340 of the Elections Code is amended to read:

1340. Any local, special, or consolidated election may be conducted wholly by mail provided that:

(a) The governing body of the local agency authorizes the use of mailed ballots for the election; and

(b) The election does not occur on the same date as a statewide direct primary election or statewide general election; and

(c) The election is one of the following:

(1) An election in which no more than 300 registered voters are eligible to participate;

(2) A maximum property tax rate election as provided for in Section 2287 of the Revenue and Taxation Code;

(3) An election on a measure or measures restricted to the imposition of special taxes in a city, county, or special district with 5,000 or less registered voters calculated as of the time of the last report of registration by the county clerk to the Secretary of State;

(4) An election on the issuance of a general obligation water bond in accordance with Section 12944.5 of the Water Code; or

(5) An election of the Directors of the Monterey Peninsula Water Management District as authorized in Section 122 of Chapter 527 of the Statutes of 1977, known as the Monterey Peninsula Water Management District Law.

SEC. 10. Section 1508.5 of the Elections Code is amended to read:

1508.5. At any election to fill a vacancy in the office of State Senator, Member of the Assembly, or Representative in Congress in a county which has not adopted a voting system, as defined in Section 15009, for use in statewide elections, there shall not be more than three precincts consolidated and they shall be formed to contain not more than 600 voters. However, in no event may a consolidated precinct in such election exceed 1,000 voters.

SEC. 11. Section 1515 of the Elections Code is amended to read:

1515. If the affidavit of registration of a voter is erroneously placed in a precinct, the voter may apply to the county clerk for a certificate showing the record of registration. The county clerk shall give the voter the certificate on or before election day. Upon presentation of this certificate to the precinct board of the proper precinct, the board shall permit the voter to vote. If the voter does not obtain the certificate provided for in this section and votes in the precinct into which the affidavit of registration has been erroneously placed by the county clerk and the election is contested, the voter's ballot shall not be rejected.

No voter who receives a certificate of registration under this section shall be charged a fee by the county clerk.

SEC. 11.3. Section 3520 of the Elections Code is amended to read:

3520. (a) Each section of the petition shall be filed with the clerk

or registrar of voters of the county or city and county in which it was circulated but all sections circulated in any county or city and county shall be filed at the same time.

(b) Within five days, excluding Saturdays, Sundays, and holidays, after the filing of such petition the clerk or registrar of voters shall determine the total number of signatures affixed to the petition and shall transmit such information to the Secretary of State. If the total number of signatures filed with all county clerks is less than 100 percent of the number of qualified voters required to find the petition sufficient, the Secretary of State shall so notify the proponents and the county clerks and no further action shall be taken in regard to the petition.

(c) If the number of signatures filed with all county clerks is 100 percent or more of the number of qualified voters needed to declare the petition sufficient, the Secretary of State shall immediately so notify the county clerks.

(d) Within 15 days after such notification, the clerk or registrar of voters shall determine the number of qualified voters who have signed the petition. If more than 500 names have been signed on sections of the petition filed with a county clerk, the clerk shall use a random sampling technique for verification of signatures, as determined by the Secretary of State. The random sample of signatures to be verified shall be drawn in such a manner that every signature filed with the county clerk 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. In determining from the records of registration what number of qualified voters have signed the petition, the clerk or registrar of voters may use the duplicate file of affidavits of registered voters or the facsimiles of voter's signatures, provided that the method of preparing and displaying the facsimiles complies with law.

(e) The clerk or registrar, upon the completion of the examination, shall immediately attach to the petition, except the signatures thereto appended, a certificate properly dated, showing the result of such examination and shall immediately transmit the petition, together with the certificate, to the Secretary of State. A copy of this certificate shall be filed in the clerk's office.

(f) If the certificates received from all county clerks by the Secretary of State establish that the number of valid signatures does not equal 90 percent of the number of qualified voters needed to find the petition sufficient, the petition shall be deemed to have failed to qualify, and the Secretary of State shall immediately so notify the proponents and the county clerks.

(g) If the certificates received from all county clerks by the Secretary of State total more than 110 percent of the number of qualified voters needed to find the petition sufficient, the petition shall be deemed to qualify as of the date of receipt by the Secretary of State of certificates showing the petition to have reached such 110

percent, and the Secretary of State shall immediately so notify the proponents and the county clerks.

SEC. 11.4. Section 3521 of the Elections Code is amended to read:

3521. (a) 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 petition sufficient, the Secretary of State shall order the examination and verification of each signature filed and shall so notify the county clerks.

(b) Within 30 days after receipt of such order, the clerk or registrar of voters shall determine from the records of registration what number of qualified voters have signed the petition and if necessary the board of supervisors shall allow the clerk or registrar additional assistance for the purpose of examining the petition and provide for their compensation. In determining from the records of registration what number of qualified voters have signed the petition, the clerk or registrar of voters may use any file or list of registered voters maintained by his office or the facsimiles of voters' signatures, provided that the method of preparing and displaying the facsimiles complies with law.

(c) The clerk or registrar, upon the completion of the examination, shall immediately attach to the petition, except the signatures thereto appended, an amended certificate properly dated, showing the result of the examination and shall immediately transmit the petition, together with the amended certificate, to the Secretary of State. A copy of the amended certificate shall be filed in the clerk's office.

(d) If the amended certificates establish that the petition is sufficient, the petition shall be deemed to be filed as of the date of receipt by the Secretary of State of certificates showing the petition to be signed by the requisite number of voters of the state.

If the amended certificates received from all county clerks by the Secretary of State establish that the petition has still been found insufficient, the Secretary of State shall immediately so notify the proponents and the county clerks.

SEC. 11.5. 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 less than 75 days nor more than 89 days after the order of the legislative body.

SEC. 11.7. 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 less than 75 days nor more than 89 days after the order of the legislative body or at a special election called for the purpose and held not less than 74 nor more than 89 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. 11.8. Section 5353 of the Elections Code is amended to read:

5353. (a) Each city, county, school district, community college district, county board of education, and special district may hold, at its discretion, an advisory election in consolidation with any regular election or special election for the purpose of allowing voters within the respective jurisdiction, or a portion thereof, to voice their opinion on substantive issues or to indicate to the local legislative body approval or disapproval of the ballot proposal.

(b) An advisory vote will be indicated as such on the ballot as a heading above the ballot proposal and by only the following description: "Advisory Vote Only."

(c) As used in this section, "advisory vote" means an indication of general voter opinion regarding the ballot proposal. The results of the advisory vote will in no manner be controlling on the sponsoring legislative body.

(d) An advisory election may be held in territory outside of the jurisdiction of the local entity calling the advisory election if the ballot proposal affects the residents of such territory. The sponsoring legislative body shall determine the territory in which the advisory election shall be held. However, the conduct of an advisory election in such territory shall only be held if a regular election or special election is to be held in such territory and the advisory election can be consolidated with it.

(e) An advisory election shall not be permitted to be consolidated with an election if the ballot's capacity will be exceeded because of the addition of the advisory election.

SEC. 12. Section 6460 of the Elections Code is amended to read:

6460. A statement of the number of voters in his county at the close of registration on the 19th day prior to the transmission of such statement shall be transmitted to the Secretary of State by each county clerk at the following times:

(a) On the 135th day before each presidential primary and before each statewide primary election.

(b) On the 10th day before each statewide election.

The statement shall show the total number of voters in the county, the number registered as affiliated with each political party, political

body, and the number who declined to state a party affiliation.

The statement shall also show the number of voters, by party affiliations, in each city, Assembly district, senatorial district, supervisorial district, and congressional district located in whole or in part within the county.

The Secretary of State, on the basis of the statements transmitted by the county clerks pursuant to subdivision (a), and within 30 days after receiving such statements, shall compile a statewide list showing the number of voters, by party affiliations, in the state and in each county, city, Assembly district, senatorial district, congressional district, and supervisorial district in the state. A copy of this list shall be made available, upon request, to any elector of this state.

The Secretary of State, on the basis of the statements transmitted by the county clerks pursuant to subdivision (b), shall, within 180 days of receiving such statements, compile the data into statewide form showing the number of voters, by party affiliations, in the state and in each county, city, Assembly district, senatorial district, congressional district, and supervisorial district in the state. This statewide data may be reported in the Secretary of State's statement of the vote as set forth in Chapter 11 (commencing with Section 17120) of Division 12. A copy of the compiled data shall be made available, upon request, to any elector of this state.

SEC. 13. Section 6509 of the Elections Code is repealed.

SEC. 14. Section 10211 of the Elections Code is amended to read:

10211. (a) With the exception of candidates for Justice of the State Supreme Court or court of appeal, immediately under the name of each candidate, and not separated from the name by any line, may appear at the option of the candidate only one of the following designations:

(1) Words designating the elective city, county, district, state, or federal office which the candidate holds at the time of filing the nomination papers to which he or she was elected by vote of the people, or to which he or she was appointed, in the case of a superior, municipal, or justice court judge.

(2) The word "incumbent" if the candidate is a candidate for the same office which he or she holds at the time of filing the nomination papers, and was elected to that office by a vote of the people, or, in the case of a superior, municipal, or justice court judge, was appointed to that office.

(3) No more than three words designating the principal professions, vocations, or occupations of the candidate. For purposes of this section, all California geographical names shall be considered to be one word.

(4) The phrase "appointed incumbent" if the candidate holds an office other than a judicial office by virtue of appointment, and the candidate is a candidate for election to the same office, or, if the candidate is a candidate for election to the same office or to some other office, the word "appointed" and the title of the office. In

either instance, the candidate may not use the unmodified word "incumbent" or any words designating the office unmodified by the word "appointed." However, the phrase "appointed incumbent" shall not be required of a candidate who seeks reelection to an office which he or she holds and to which he or she was appointed, as a nominated candidate, in lieu of an election, pursuant to Sections 5326, 5327, and 5328 of the Education Code or Section 8873, 9373, 9723, 22844, or 23520 of the Elections Code.

(b) Neither the Secretary of State nor any other election official shall accept a designation which:

- (1) Would mislead the voter.
- (2) Would suggest an evaluation of a candidate, such as outstanding, leading, expert, virtuous, or eminent.
- (3) Abbreviates the word "retired" or places it following any word or words which it modifies.
- (4) Uses a word or prefix, such as "former" or "ex-," which means a prior status. The only exception is the use of the word "retired."
- (5) Uses the name of any political party, whether or not it has qualified for the ballot.
- (6) Uses a word or words referring to a racial, religious, or ethnic group.
- (7) Refers to any activity, which activity is prohibited by law.

If upon checking the nomination papers the election official finds the designation to be in violation of any of the restrictions set forth in this subdivision, the election official shall notify the candidate by registered mail return receipt requested. The candidate shall, within three days from the date of receipt of the notice, appear before the election officer or, in the case of the Secretary of State, notify the Secretary of State by telephone, and provide an alternate designation. In the event the candidate fails to provide an alternate designation, no designation shall appear after the candidate's name.

(c) The designation shall remain the same for all purposes of both primary and general elections unless the candidate, at least 70 days prior to the general election requests in writing a different designation which the candidate is entitled to use at the time of the request.

(d) In all cases words so used shall be printed in eight-point roman uppercase and lowercase type except that if the designation selected is so long that it would conflict with the space requirements of Sections 10207 and 10221, the election official shall use a type size for the designation for each candidate for that office sufficiently smaller to meet these requirements.

(e) Whenever a foreign language translation of a candidate's designation is required under the Voting Rights Act of 1965, as amended by Public Law 94-73, to appear on the ballot in addition to the English language version, it shall be as short as possible, as consistent as is practicable with the provisions of this section, and shall employ abbreviations and initials wherever possible in order to avoid undue length.

SEC. 14.1. Section 14000 of the Elections Code is repealed.

SEC. 14.2. Section 14000 is added to the Elections Code, to read: 14000. The county clerk, in providing the materials required by this division, shall not be required to utilize the services of the county purchasing agent.

SEC. 15. Section 14213 of the Elections Code is amended to read: 14213. If the surname of any person offering to vote has been changed since the person has registered, such person shall sign his or her name as it was before the change and also the appropriate name as it is at the time the person votes, indicating on the roster on the same line by brackets or other means that the two names are the name of one person.

SEC. 16. Section 35006 of the Elections Code is amended to read: 35006. The term of office of any supervisor who has been elected and whose term of office has not expired shall not be affected by any change in the boundaries of the district from which he or she was elected.

At the first election for county supervisors in each county following adjustment of the boundaries of supervisorial districts, a supervisor shall be elected for each district under the readjusted district plan that has the same district number as a district whose incumbent's term is due to expire.

A change in the boundaries of a supervisorial district shall not be made within 45 days before the first day for circulating nomination papers for an election of supervisors in the county or between the direct primary election and the general election.

SEC. 17. Section 24001 of the Government Code is amended to read:

24001. Except as otherwise provided in Sections 27550.1 and 27641.1 of this code or in this section, or in Section 21123 or 34711 of the Water Code, or in any landowner voting district, as defined in subdivision (m) of Section 23503 of the Elections Code, a person is not eligible to a county or district office, unless he or she is a registered voter of the county or district in which the duties of the office are to be exercised at the time that nomination papers are issued to the person or at the time of the person's appointment. However, if a duly qualified health officer is not available within a county or district, then it shall not be necessary that any person appointed to any such position be a citizen of the state or an elector of the county or district at the time of his appointment.

The board of supervisors of any county may, if it finds that the best interests of the county will be served, waive the requirement that the administrative officer be an elector of the county.

The board of supervisors or any other legally constituted appointing authority in a county that is consolidated with a city may, if it finds that the best interests of the county will be served, waive the requirements of this section for an appointment to the office of chief juvenile probation officer or chief adult probation officer that the appointee be a citizen of the state and an elector of the county.

SEC. 18. Section 24001 of the Government Code is amended to read:

24001. Except as otherwise provided in Sections 27550.1 and 27641.1 of this code or in this section, or in Section 21123 or 34711 of the Water Code, or in any landowner voting district, as defined in subdivision (m) of Section 23503 of the Elections Code, a person is not eligible to a county or district office, unless he or she is a registered voter of the county or district in which the duties of the office are to be exercised at the time that nomination papers are issued to the person or at the time of the person's appointment. However, if a duly qualified health officer is not available within a county or district, then it shall not be necessary that any person appointed to any such position be a citizen of the state or an elector of the county or district at the time of his or her appointment.

The board of supervisors of any county may, if it finds that the best interests of the county will be served, waive the requirement that the administrative officer or county health officer be an elector of the county.

The board of supervisors or any other legally constituted appointing authority in a county that is consolidated with a city may, if it finds that the best interests of the county will be served, waive the requirements of this section for an appointment to the office of chief juvenile probation officer or chief adult probation officer that the appointee be a citizen of the state and an elector of the county.

SEC. 19. Section 34 of Chapter 819 of the Statutes of 1971 is amended to read:

Sec. 34. Notwithstanding the provisions of Sections 74019 and 74202 of the Water Code and Sections 23506 and 23509 of the Elections Code and any other provisions of law in conflict with this section, directors shall be elected as provided in this section. In all other respects the election of directors and the holding of office by directors and the expiration of their terms of office shall be governed by Division 21 (commencing with Section 74000) of the Water Code and the Uniform District Election Law. The general district election shall be held on the date of the general municipal election for the City of Stockton.

SEC. 20. Section 31105.2 of the Government Code is amended to read:

31105.2. (a) Any ordinance adopting a civil service system which was, prior to the effective date of this section, submitted to a vote of the qualified electors of the county at a general or special election and received the affirmative vote of a majority of the electors voting on the proposition for the approval of the ordinance, and all ordinances amending such ordinance, are hereby validated and confirmed and shall have the full legal effect of ordinances adopted by the board of supervisors and approved by the electors in the manner required by law and complying in every respect with laws relating to the adoption and approval of such ordinances, notwithstanding any defect, irregularity, omission or ministerial

error in the adoption or approval thereof.

(b) Any ordinance or ordinances repealing and adopting a civil service system which was, prior to the effective date of this subdivision, submitted to a vote of the qualified electors of the county at a general or special election and received the affirmative vote of a majority of the electors voting on the proposition for the approval of the ordinance or ordinances, and all ordinances amending such ordinance, are hereby validated and confirmed and shall have the full legal effect of ordinances adopted by the board of supervisors and approved by the electors in the manner required by law and complying in every respect with laws relating to the repealing, adoption, and approval of such ordinances, notwithstanding any defect, irregularity, omission or ministerial error in the adoption or approval thereof, including, but not limited to, the failure of the clerk to mail to the voters official matter prescribed in Chapter 2 (commencing with Section 3700) of Division 5 of the Elections Code.

SEC. 21. It is the intent of the Legislature, if this bill and Senate Bill No. 1481 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 24001 of the Government Code, and this bill is chaptered after Senate Bill No. 1481, that Section 24001 of the Government Code, as amended by Section 17 of this act, shall remain operative until the effective date of Senate Bill No. 1481, and that on the effective date of Senate Bill No. 1481, Section 24001 of the Government Code, as amended by Senate 18 of this act, be further amended in the form set forth in Section 18 of this act to incorporate the changes in Section 24001 proposed by Senate Bill No. 1481. Therefore, if this bill and Senate Bill No. 1481 are both chaptered and become effective on or before January 1, 1981, and Senate Bill No. 1481 is chaptered before this bill and amends Section 24001, Section 18 of this act shall become operative on the effective date of Senate Bill No. 1481.

SEC. 22. 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. 23. 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:

Since the changes made in this act, concerning the conduct of elections, are essential administrative changes, it is necessary that this act take effect prior to the 1980 General Election.

## CHAPTER 1288

An act to amend Section 3054 of the Civil Code, to amend Sections 7157 and 7158 of the Financial Code, to amend Sections 53651, 53661, and 53667 of, and to repeal Section 53651.5 of, the Government Code, relating to financial institutions, and making an appropriation therefor.

[Approved by Governor September 29, 1980 Filed with  
Secretary of State September 30, 1980 ]

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

SECTION 1. Section 3054 of the Civil Code is amended to read:  
3054. (a) A banker, or a savings and loan association, has a general lien, dependent on possession, upon all property in his hands belonging to a customer, for the balance due to the banker or savings and loan association from such customer in the course of the business.

(b) The exercise of this lien with respect to deposit accounts shall be subject to the limitations and procedures set forth in Section 864 or 7609.5 of the Financial Code.

SEC. 2. 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 100 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. 3. Section 7158 of the Financial Code is amended to read:  
7158. An association may make loans secured by the pledge of notes evidencing loans which at the time of such pledge are not in excess of association loan limits and which are secured by property upon which the association might make a direct loan, if such collateral loans at no time exceed 100 percent of the unpaid principal of the notes pledged as collateral security. However, if the note is not secured by a mortgage or deed of trust guaranteed or insured by an agency of the federal government, such loan shall not exceed 90 percent of the market value of the property securing the notes.

SEC. 4. Section 53651 of the Government Code is amended to read:

53651. Eligible securities are any of the following:

(a) United States Treasury notes, bonds, bills or certificates of indebtedness, or obligations for which the faith and credit of the United States are pledged for the payment of principal and interest, including the guaranteed portions of small business administration loans, so long as such loans are obligations for which the faith and credit of the United States are pledged for the payment of principal and interest.

(b) Notes or bonds or any obligations of a local public agency (as defined in the United States Housing Act of 1949) or any obligations of a public housing agency (as defined in the United States Housing Act of 1937) for which the faith and credit of the United States are pledged for the payment of principal and interest.

(c) Bonds of this state or of any local agency or district of the State of California having the power, without limit as to rate or amount, to levy taxes to pay the principal and interest of such bonds upon all property within its boundaries subject to taxation by such local agency or district, and in addition, sales tax revenue bonds, and revenue bonds and other obligations payable solely out of the revenues from a revenue-producing property owned, controlled or operated by such state, local agency or district or by a department, board, agency or authority thereof.

(d) Bonds of any public housing agency (as defined in the United States Housing Act of 1937, as amended) as are secured by a pledge of annual contributions under an annual contribution contract between such public housing agency and the Public Housing Administration if such contract shall contain the covenant by the Public Housing Administration which is authorized by subsection (b) of Section 22 of the United States Housing Act of 1937, as amended, and if the maximum sum and the maximum period specified in such contract pursuant to said subsection 22(b) shall not be less than the annual amount and the period for payment which are requisite to provide for the payment when due of all installments of principal and interest on such obligations.

(e) Registered warrants of this state.

(f) Bonds, consolidated bonds, collateral trust debentures, consolidated debentures, or other obligations issued by the United States postal service, federal land banks or federal intermediate credit banks established under the Federal Farm Loan Act, as amended, debentures and consolidated debentures issued by the Central Bank for Cooperatives and banks for cooperatives established under the Farm Credit Act of 1933, as amended, consolidated obligations of the Federal Home loan banks established under the Federal Home Loan Bank Act, bonds, debentures and other obligations of the Federal National Mortgage Association or of the Government National Mortgage Association established under the National Housing Act, as amended, bonds of any federal home

loan bank established under said act, bonds, debentures and other obligations of the Federal Home Loan Mortgage Corporation established under the Emergency Home Finance Act of 1970, and obligations of the Tennessee Valley Authority.

(g) Notes, tax anticipation warrants or other evidence of indebtedness issued pursuant to Article 7 (commencing with Section 53820), Article 7.5 (commencing with Section 53840) or Article 7.6 (commencing with Section 53850) of this Chapter 4.

(h) State of California notes.

(i) Bonds, notes, certificates of indebtedness, warrants or other obligations issued by: (1) any state of the United States (except this state), or the Commonwealth of Puerto Rico, or any local agency thereof having the power to levy taxes, without limit as to rate or amount, to pay the principal and interest of such obligations, or (2) any state of the United States (except this state), or the Commonwealth of Puerto Rico, or a department, board, agency or authority thereof except bonds which provide for or are issued pursuant to a law which may contemplate a subsequent legislative appropriation as an assurance of the continued operation and solvency of such department, board, agency or authority but which does not constitute a valid and binding obligation for which the full faith and credit of such state or the Commonwealth of Puerto Rico are pledged, which are payable solely out of the revenues from a revenue-producing source owned, controlled or operated thereby; provided such obligations issued by an entity described in (1), above, are rated in one of the three highest grades, and such obligations issued by an entity described in (2), above, are rated in one of the two highest grades by a nationally recognized investment service organization that has been engaged regularly in rating state and municipal issues for a period of not less than five years.

(j) Obligations issued, assumed or guaranteed by the International Bank for Reconstruction and Development, Inter-American Development Bank, the Government Development Bank of Puerto Rico, or the Asian Development Bank.

(k) Participation certificates of the Export-Import Bank of the United States.

(l) Bonds and notes of the California Housing Finance Agency issued pursuant to Chapter 7 (commencing with Section 51350) of Part 3 of Division 31 of the Health and Safety Code.

(m) Promissory notes secured by first mortgages and first trust deeds upon improved residential real property located in California, provided that:

(1) The promissory notes are, notwithstanding Section 53652, at all times in an amount in value at least 50 percent in excess of the amount deposited with the depository;

(2) The State Treasurer issues regulations establishing procedures for determining the value of the promissory notes, and the local agency administrator develops standards and procedures necessary to protect the security of the deposits so collateralized;

(3) The depository may exercise, enforce, or waive any right or power granted to it by the promissory note, mortgage, or deed of trust; and

(4) The following may not be used as security for deposits:

(A) Any promissory note on which any payment is more than 90 days past due,

(B) Any promissory note secured by a mortgage or deed of trust as to which there is a lien prior to the mortgage or deed of trust, or

(C) Any promissory note secured by a mortgage or deed of trust as to which a notice of default has been recorded pursuant to Section 2924 of the Civil Code or an action has been commenced pursuant to Section 725a of the Code of Civil Procedure.

(n) Any bonds, notes, warrants, or other evidences of indebtedness of a nonprofit corporation issued to finance the construction of a school building or school buildings pursuant to a lease or agreement with a school district entered into in compliance with the provisions of Section 39315 or 81345 of the Education Code, and also any bonds, notes, warrants or other evidences of indebtedness issued to refinance any such bonds, notes, warrants, or other evidences of indebtedness as specified in Section 39317 of the Education Code.

SEC. 5. Section 53651.5 of the Government Code is repealed.

SEC. 6. Section 53661 of the Government Code is amended to read:

53661. The Superintendent of Banks shall act as Administrator of Local Agency Security and shall be responsible for the administration of this article. The administrator shall:

(a) Issue such rules and regulations consistent with law as the administrator may deem necessary or advisable in executing the powers, duties and responsibilities assigned by this article.

(b) In addition to other remedies, have the power and authority to impose the following sanctions for noncompliance with this article, after a hearing if requested by the party deemed in noncompliance, except as provided in paragraph (4):

(1) Assess against and collect from a depository a fine not to exceed two hundred fifty dollars (\$250) for each day such depository fails to maintain with the agent of depository securities as required by Section 53652.

(2) Assess against and collect from a depository a fine not to exceed one hundred dollars (\$100) for each day beyond the time period specified in subdivision (b) of Section 53663 the depository negligently or willfully fails to file in the office of the administrator a written report required by such section.

(3) Assess against and collect from a depository a fine not to exceed one hundred dollars (\$100) for each day beyond the time period specified in subdivision (c) of Section 53661 that a depository negligently or willfully fails to file in the office of the administrator a written report required by that section.

(4) Declare an agent of depository who fails to comply with its

agreement filed pursuant to Section 53657 ineligible to act as an agent of depository, and order securities held by such agent of depository transferred to another agent of depository designated by the administrator. Following such declaration of ineligibility and transfer of securities, the administrator shall hold a hearing upon request of the agent of depository pursuant to regulations issued under this article.

(c) Require from every depository a report verified by the agent of depository listing all securities, and the market value thereof, which are securing local agency deposits together with the total deposits then secured by the pool, such report to confirm compliance with Section 53652. Such reports may be required whenever deemed necessary by the administrator, but shall be required at least four times each year at the times designated by the Comptroller of the Currency for reports from national banking associations. Such reports shall be filed in the office of the administrator by the depository within 20 business days of the date the administrator calls for such report.

(d) Verify pooled securities reported to be held by an agent of a depository at such times as the administrator deems necessary.

(e) Have access to reports of examination made by the Comptroller of the Currency insofar as they relate to the trust departments of national banking associations.

(f) Determine when any security listed in Section 53651 is not qualified to secure public deposits and to require in such case that an additional security be substituted immediately in the pooled securities if necessary to comply with Section 53652. Failure to comply with such requirement shall be reported by the administrator promptly to those treasurers having money on deposit in that depository and, in addition shall be reported as follows:

(1) When that depository is a national bank, to the Comptroller of the Currency of the United States.

(2) When that depository is a state bank, to the Superintendent of Banks.

(3) When that depository is a federal savings and loan association, to the Federal Home Loan Bank Board.

(4) When that depository is a state savings and loan association, to the Savings and Loan Commissioner.

(g) Require from each treasurer at appropriate times a statement of the amount and location of each deposit together with such other information deemed necessary by the administrator for effective operation of this article. The facts recited in any statement from a treasurer to the administrator are conclusively presumed to be true for the single purpose of the administrator fulfilling responsibilities assigned to him by this article and for no other purpose.

(h) In the discretion of the administrator, whenever it appears to the administrator that any person has engaged or is about to engage in any act or practice constituting a violation of any provision of this article or any rule, regulation or order issued under this article, bring

an action in the name of the people of the State of California in the superior court to enjoin the acts or practices or to enforce compliance with this article or any rule, regulation or order issued under this article. Upon a proper showing, a permanent or preliminary injunction, restraining order, or writ of mandate shall be granted, and the court may not require the administrator to post a bond.

SEC. 7. Section 53667 of the Government Code is amended to read:

53667. (a) Expenses incurred by the administrator in carrying out the duties and responsibilities assigned to the administrator by this article, shall be borne by the Local Agency Deposit Security Fund, which is hereby created and continuously appropriated to the administrator for the administration of this article. This fund shall consist of fines levied pursuant to Section 53661 and assessments levied pursuant to this section. To the extent the fund does not contain sufficient moneys to cover the expenses incurred by the administrator, they shall be borne pro rata on an annual basis by each depository accepting local agency deposits. The basis of the apportionment of such expenses shall be the proportion that the average amount of local agency deposits held by the depository bears to the average total amount of deposits held by all depositories in the state as shown by the reports of depositories to the administrator required in subdivision (c) of Section 53661.

(b) If the amount which would be levied against a depository under subdivision (a) is less than twenty-five dollars (\$25), that depository's assessment shall be waived for that year. The total amount of assessments so waived shall be borne pro rata that year by those depositories assessed twenty-five dollars (\$25) or more.

(c) On or before the last day of each fiscal year the administrator shall notify each depository by mail of the amount levied against it. The depository shall pay the amount levied within 20 days after such notice into the Local Agency Deposit Security Fund for the administration of this article. If payment is not made to the administrator within such time, the administrator shall assess and collect, in addition to the annual assessment, a penalty of 5 percent of the assessment for each month or part thereof that the payment is delinquent.

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## CHAPTER 1289

An act to add and repeal Chapter 10.5 (commencing with Section 4530) to Division 5 of Title 2 of the Government Code, relating to public works.

[Approved by Governor September 29, 1980 Filed with  
Secretary of State September 30, 1980.]

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

SECTION 1. Chapter 10.5 (commencing with Section 4530) is added to Division 5 of Title 2 of the Government Code, to read:

**CHAPTER 10.5. TARGET AREA CONTRACT PREFERENCE ACT**

4530. This chapter shall be known as the "Target Area Contract Preference Act."

4531. The Legislature hereby declares that it serves a public purpose, and is of benefit to the state, to encourage and facilitate job maintenance and job development in distressed and declining areas of cities and towns in the state. It is the intent of the Legislature to further these goals by providing appropriate preferences to California based companies submitting bids or proposals for state contracts to be performed at worksites in distressed areas by persons with a high risk of unemployment when the contract is for goods or services in excess of one hundred thousand dollars (\$100,000).

4532. As used in this chapter:

(a) "Block group" means the smallest area for which the United States Department of Commerce, Bureau of the Census provides data on personal income.

(b) "Urbanized area" means a central city or cities and surrounding closely settled territory, as defined by the United States Department of Commerce, Bureau of the Census in the Federal Register, Vol. 39, Number 85, for Wednesday, May 1, 1974, at pages 15202-15203 and as periodically updated.

(c) "Cluster of block groups" means one or more contiguous block groups.

(d) "Distressed" means an urbanized area, within the State of California and as identified by the Office of Planning and Research, which contains at least 3,000 people in a cluster of block groups, each of which meet at least five of the following criteria according to the most recent available census information compared to the last statewide census:

(1) The percentage of the block group's population over age 25 with less than a high school education was within the upper quartile of all block groups;

(2) The unemployment rate of the block group was within the upper quartile of all block groups;

(3) The per capita income of the block group was within the lower quartile of all block groups;

(4) The percentage of the block group's households which were female-headed households in poverty with children present was within the upper quartile of all block groups;

(5) The percentage of the block group's population over 65 who

were in poverty was within the upper quartile of all block groups;

(6) The percentage of the block group's households with more than 1.01 persons per room was within the upper quartile of all block groups;

(7) The percentage of the block group's population younger than 18 who were in poverty was within the upper quartile of all block groups;

(8) The percentage of the block group's population who were nonwhite or hispanic was within the upper quartile of all block groups.

(e) "Approved special census" means a special census approved by the Population Research Unit of the Department of Finance.

(f) "Person with high risk of unemployment" means a person who:

(1) As a member of one of the eligible groups defined in Section 321 of Public Law 95-600, qualifies an employer who hires him or her for the Targeted Jobs Tax Credit. These groups are: economically disadvantaged youth, economically disadvantaged Vietnam-era veterans, economically disadvantaged ex-convicts, vocational rehabilitation referrals, youth participating in a qualified cooperative education program, recipients of supplemental security income benefits under Title XVI of the Social Security Act, and general assistance recipients.

(2) Qualifies an employer hiring him or her for the Work Incentive/Welfare Tax Credit authorized by Section 322 of Public Law 95-600. These persons include applicants and recipients of aid to families with dependent children who are registered with the Work Incentive Program, and aid to families with dependent children recipients who have been receiving welfare for at least 90 days.

(g) "Poverty" means the poverty level, as defined by the United States Department of Commerce, Bureau of the Census in the Federal Register, Volume 43, Number 87, for Thursday May 4, 1978, at pages 19260-19269, and as periodically updated.

4533. Whenever the state prepares an invitation for bid (I.F.B.) for a contract for goods in excess of one hundred thousand dollars (\$100,000), except a contract in which the worksite is fixed by the provisions of the contract, the state shall award a 5-percent preference to California based companies who certify under penalty of perjury that no less than 50 percent of the labor required to perform the contract shall be accomplished at a worksite or worksites located in a distressed area.

4533.1. Where a bidder complies with the provisions of Section 4533, the state shall award a 1-percent preference for bidders who shall agree to hire persons with high risk of unemployment equal to 5 to 9 percent of its work force during the period of contract performance; a 2-percent preference for bidders who shall agree to hire persons with high risk of unemployment equal to 10 to 14 percent of its work force during the period of contract performance; a 3-percent preference for bidders who shall agree to hire persons

with high risk of unemployment equal to 15 to 19 percent of its work force during the period of contract performance; and a 4-percent preference for bidders who shall agree to hire persons with high risk of unemployment equal to 20 or more percent of its work force during the period of contract performance.

4534. In evaluating proposals for contracts for services in excess of one hundred thousand dollars (\$100,000), except a contract in which the worksite is fixed by the provisions of the contract, the state shall award a 5-percent preference on the price submitted by California based companies who certify under penalty of perjury that they shall perform the contract at a worksite or worksites located in a distressed area.

4534.1. Where a bidder complies with the provisions of Section 4534, the state shall award the additional preferences as set forth in Section 4533.1 as appropriate.

4535. All state contracts issued to bidders who are awarded preferences under this chapter shall contain conditions to ensure that the contractor performs the contract at the location specified and meets any commitment to employ persons with high risk of unemployment.

4535.1. A business which requests and is given the preference provided for in Section 4533 or 4534 by reason of having furnished a false certification, and which by reason of such certification has been awarded a contract to which it would not otherwise have been entitled, shall:

(a) Pay to the state any difference between the contract amount and what the state's cost would have been if the contract had been properly awarded; and

(b) In addition to the amount specified in subdivision (a), be assessed a penalty in an amount of not more than 10 percent of the amount of the contract involved; and

(c) Be ineligible to transact any business with the state for a period of not less than three months and not more than 24 months.

Prior to the imposition of any sanction under this chapter, the contractor or vendor shall be entitled to a public hearing and to five days' notice of the time and place thereof. The notice shall state the reasons for the hearing.

4535.2. The maximum preference a bidder may be awarded pursuant to this chapter and any other provision of current law shall be 15 percent.

4535.3. The Department of General Services, with the cooperation of the Employment Development Department, the Department of Industrial Relations and the Office of Planning and Research, and under the direction of the State and Consumer Services Agency shall adopt appropriate rules, regulations, and guidelines to implement this chapter.

4536. Effective July 1, 1983, this chapter is repealed unless a later enacted statute, which is chaptered and takes effect on or before such date, deletes or extends such date.

SEC. 2. The Department of General Services prior to January 1, 1983, shall submit a report to the Legislature and the Governor on the manner of implementation of Chapter 10.5 (commencing with Section 4530) of Division 5 of Title 2 of the Government Code.

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## CHAPTER 1290

An act to add and repeal Section 6388.6 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 29, 1980. Filed with  
Secretary of State September 30, 1980]

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

SECTION 1. Section 6388.6 is added to the Revenue and Taxation Code, to read:

6388.6. (a) Notwithstanding Section 6388, where a cargo container, as defined in this section, is purchased for use without this state and is delivered by an instate manufacturer to the purchaser within this state, and such purchaser moves such cargo container to any point outside this state within 30 days from and after the date of delivery, there are exempted from the taxes imposed by Part 1 (commencing with Section 6001), Part 1.5 (commencing with Section 7200), and Part 1.6 (commencing with Section 7251) the gross receipts from the sale of and the storage, use or other consumption of such cargo container within the state, provided that the purchaser furnishes all of the following to the manufacturer:

(1) The purchaser's affidavit attesting that he purchased such cargo container at a specified location for use exclusively outside this state, or exclusively in interstate commerce.

(2) The purchaser's affidavit that such cargo container has been moved to a point outside this state within 30 days of the date of the delivery of the cargo container to him.

(b) As used in this section "cargo container" means a receptacle which has all of the following characteristics:

(1) Of a permanent character and accordingly strong enough to be suitable for repeated use.

(2) Specially designed to facilitate the carriage of goods, by one or more modes of transport, one of which shall be by vessels, without intermediate reloading.

(3) Fitted with devices permitting its ready handling, particularly its transfer from one mode of transport to another.

(4) Designed to be easy to fill and empty.

(5) Having a cubic displacement of 1,000 cubic feet or more.

(c) This section shall remain in effect only until December 31, 1983, and as of such date is repealed, unless a later enacted statute,

which is chaptered before December 31, 1983, deletes or extends such date.

SEC. 3. On or before July 1, 1983, the Legislative Analyst shall report to the Legislature on:

(a) The number of cargo container manufacturers that have been established in California since the effective date of this act.

(b) Whether these manufacturers have moved to California as a result of the exemption provided by this act.

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, it shall become operative on October 1, 1980.

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## CHAPTER 1291

An act to add and repeal Article 1.5 (commencing with Section 18205) of Chapter 3 of Part 6 of Division 9 of the Welfare and Institutions Code, relating to the elderly, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1980. Filed with  
Secretary of State September 30, 1980 ]

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

SECTION 1. Article 1.5 (commencing with Section 18205) is added to Chapter 3 of Part 6 of Division 9 of the Welfare and Institutions Code, to read:

### Article 1.5. Peer Counseling for the Elderly

18205. The Legislature hereby finds and declares:

(a) The aging of America is one of the most significant demographic trends of this century. The total number of elderly Americans is increasing by approximately 1,400 persons per day. If current trends continue, the total number of older Americans is expected to increase from 23 million in 1980 to 55 million by 2030. Those Americans aged 75 or older are the fastest growing segment of the population.

(b) Although the vast majority of elderly people are able to lead active independent lives as productive members of the community, as the number of persons over the age of 65 increases, our health care system, and especially our mental health system, must be prepared to meet their needs.

(c) Mental illness is more prevalent among the elderly than younger adults. An estimated 15 percent to 25 percent of older persons have significant mental health problems. Twenty-five percent of all reported suicides in this country are committed by the

elderly. Chronic health problems that afflict 86 percent of the elderly are a significant contributory factor to this mental health problem.

(d) Even though they are in need of significant assistance in dealing with the stresses and strains of everyday life, treatment statistics show that the elderly receive less care than do younger adults and that their rate of care is dropping.

(e) Since it is becoming increasingly expensive to treat the problems of the elderly in an institutional system, and since the Governor has established a policy of treating mental health problems in the community if at all possible, it is important for the State of California to now begin to develop an adequate system of community-based mental health care for the elderly.

(f) Since its inception in June of 1978, the Santa Monica Peer Counseling for the Elderly Program has counseled more than 3,800 elderly persons with apparent significant success in allowing its clients to continue to lead productive, active lives in the community and in doing so has saved the taxpayers a significant amount of money which would otherwise have been spent on institutional care for elderly persons.

18205.1. It is therefore the intent of the Legislature that the program funded pursuant to the article shall:

(1) Stimulate the establishment and use of a neighborhood peer counseling center for the elderly to help meet the expected increase in the number of elderly persons in California, and to provide those residents with an alternative to costly institutional care.

(2) Encourage continuing community involvement in the development of these programs, and allow the elderly population to work together to meet a significant need of their age group.

(3) Offer structures for peer counseling programs which may serve as models for additional centers in other states and communities.

(4) Serve a specific community or locale and recruit and train elderly persons to work with other elderly to provide counseling and other services to the residents of that community.

(5) Educate the residents of the community on the problems of the elderly, combat prejudice against the aged, and teach the elderly to deal with the aging process.

18206. It is the intent of the Legislature to encourage the development of this program through the appropriate county mental health plan, submitted pursuant to Section 5651 of the Welfare and Institutions Code, for 1981-82.

18207. The program receiving funding pursuant to this act shall submit a report, no later than July 1, 1981, to the Legislature and the Director of Mental Health on the effectiveness of the program.

18208. This article shall remain operative only until January 1, 1982, and on such date is repealed, unless a later enacted statute, which is chaptered before January 1, 1982, deletes or extends this date.

SEC. 3. The sum of seventy-eight thousand seven hundred

nineteen dollars (\$78,719) is hereby appropriated from the General Fund to the State Department of Mental Health for expenditure, subject to the approval of the Director of Finance, in the 1980-81 fiscal year for contracting with or for allocation to counties for contracting with appropriate parties for continuation of the Peer Counseling Program for the Elderly which provides for: (1) a neighborhood peer counseling center for the elderly, (2) program design for clients, and (3) program training for professionals, paraprofessionals, and community residents with respect to elderly persons. In the event federal funds are provided for the purpose of such program, the amount available from this appropriation shall be reduced equal to the amount of such funds.

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 provide funds to continue programs for the elderly during the current fiscal year, it is necessary for this act to take effect immediately.

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## CHAPTER 1292

An act to amend Sections 9511 and 9512 of, and to add Section 18331.1 to, the Welfare and Institutions Code, relating to senior volunteer and nutrition services, and making an appropriation therefor.

[Approved by Governor September 29, 1980. Filed with  
Secretary of State September 30, 1980 ]

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

SECTION 1. Section 9511 of the Welfare and Institutions Code is amended to read:

9511. The department shall conduct an evaluation of each pilot project and submit a report to the Legislature and the Governor on or before February 1, 1981. The evaluation and report shall include, but not be limited to, the following areas of inquiry:

(a) An examination of the social and monetary benefits of each program which considers and specifies the uniqueness of the six pilot program sites.

(b) A discussion of the problems encountered in planning and implementing the program.

(c) An examination of the impact of the volunteer service component both in terms of the individual and the agency receiving services.

(d) An identification of future funding possibilities.

The evaluation shall contain a section prepared by the directors of

each program site which presents a summary of accomplishments, findings and recommendations related to each program site.

SEC. 2. Section 9512 of the Welfare and Institutions Code is amended to read:

9512. This chapter shall remain in effect only until July 1, 1981, and, as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1981, deletes or extends such date.

SEC. 3. Section 18331.1 is added to the Welfare and Institutions Code, to read:

18331.1. Notwithstanding the limitations of Section 18331 of this code, the director is empowered to allocate money from the Nutrition Reserve Fund in order to implement the Nutrition and Volunteer Services Program for Senior Citizens for the calendar year commencing January 1, 1981.

SEC. 4. There is hereby appropriated from the Nutrition Reserve Fund, the sum of two hundred thousand dollars (\$200,000) to the Director of the Department of Aging for the purpose of implementing the provisions of this act.

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## CHAPTER 1293

An act, relating to valley fever, and making an appropriation therefor.

[Approved by Governor September 29, 1980 Filed with  
Secretary of State September 30, 1980]

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

SECTION 1. The sum of three hundred thousand dollars (\$300,000) is hereby appropriated from the General Fund to the University of California for the support of the study to develop a vaccine for valley fever.

Such funds shall be used by the university in support of the vaccine screening test program phase of the existing valley fever studies being conducted by the Kern County Chapter of the American Lung Association, and such funds may be expended for material, personnel, and administrative costs of such study program. The results of such study program shall be reported to the Legislature on or before January 1, 1982. The Legislative Analyst shall summarize the report in the analysis of the Budget Bill for the 1982-1983 fiscal year.

## CHAPTER 1294

An act to add Section 18688.5 to the Revenue and Taxation Code, relating to taxation.

[Approved by Governor September 29, 1980. Filed with  
Secretary of State September 30, 1980 ]

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

SECTION 1. Section 18688.5 is added to the Revenue and Taxation Code, to read:

18688.5. The Franchise Tax Board shall not assess interest charges pursuant to Section 18688 for the period between 45 days after the date of final review of an audit determining an additional amount is owed and the date a notice of additional tax proposed to be assessed is sent to the taxpayer.

SEC. 2. This act shall apply with respect to notices of additional tax proposed where the date of final review was on or after July 1, 1981.

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CHAPTER 1295

An act to amend Section 17958.7 of the Health and Safety Code, relating to building standards.

[Approved by Governor September 29, 1980. Filed with  
Secretary of State September 30, 1980 ]

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

SECTION 1. Section 17958.7 of the Health and Safety Code is amended to read:

17958.7. Except as provided in Section 17922.6, the governing body of a city or county, before making any modifications or changes pursuant to Section 17958.5, shall make an express finding that such modifications or changes are needed. Such a finding shall be available as a public record and a copy, together with the modification or change, shall be filed with the department. No such modification or change shall become effective or operative for any purpose until the finding and the modification or change have been filed with the department.

SEC. 2. Section 17958.7 of the Health and Safety Code, as amended by Section 10 of Senate Bill 1754, is amended to read:

17958.7. Except as provided in Section 17922.6, the governing body of a city or county, before making any modifications or changes pursuant to Section 17958.5, shall make an express finding that such modifications or changes are needed. Such a finding shall be

available as a public record. A copy of such findings, together with the modification or change expressly marked and identified to which each such finding refers, shall be filed with the department. No such modification or change shall become effective or operative for any purpose until the finding and the modification or change have been filed with the department.

SEC. 3. It is the intent of the Legislature, if this bill and Senate Bill 1754 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 17958.7 of the Health and Safety Code, and this bill is chaptered after Senate Bill 1754, that Section 17958.7 of the Health and Safety Code, as amended by Section 10 of Senate Bill 1754, 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 17958.7 proposed by this bill. Therefore, if this bill and Senate Bill 1754 are both chaptered and become effective on or before January 1, 1981, and Senate Bill 1754 is chaptered before this bill and amends Section 17958.7, 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. 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.

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## CHAPTER 1296

An act making an appropriation to the Department of Justice to pay various claims against the state, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1980 Filed with  
Secretary of State September 30, 1980 ]

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

SECTION 1. The sum of five hundred ninety thousand dollars (\$590,000) is hereby appropriated from the General Fund to the Department of Justice for the settlement of the claims against the State of California as follows:

(a) The sum of one hundred ninety thousand dollars (\$190,000) in settlement of the claim of Sarah DeLellis against the State of California in the action entitled Sarah DeLellis, an incompetent, by and through her Guardian ad Litem, Joan Smith v. State of

California; superior court case number: SEC 18954.

(b) The sum of two hundred seventy-five thousand dollars (\$275,000), in settlement of the claim of Roy A. McDermid against the State of California in the action entitled Roy A. McDermid v. Metropolitan State Hospital; superior court case number: C 100547.

(c) The sum of one hundred twenty-five thousand dollars (\$125,000), in settlement of the claim of Martha A. Zamora against the State of California in the action entitled Martha A. Zamora v. Metropolitan State Hospital; superior court case number: SEC 191185.

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 the actions against the state in the above-named actions, thereby terminating a lengthy court procedure and ending the hardships to the named plaintiffs as quickly as possible, it is necessary for this act to take effect immediately.

CHAPTER 1297

An act making an appropriation to pay the claims of the Secretary of the State Board of Control, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1980. Filed with Secretary of State September 30, 1980 ]

I am reducing the appropriation in Section 1 of Senate Bill No. 2041 from \$1,195,094.73 to \$785,484.73 by reducing the appropriation from the State Highway Account, State Transportation Fund from \$613,724.93 to \$204,114.93

This amount would settle the claim of the Mesa Water District against the state and would eliminate further costly litigation

EDMUND G BROWN JR., Governor

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

SECTION 1. The sum of one million one hundred ninety-five thousand ninety-four dollars and seventy-three cents (\$1,195,094.73) is hereby appropriated from the funds indicated to the State Board of Control to pay the claims of the Secretary of the State Board of Control:

General Fund.....	\$190,882.65
State Transportation Fund	
Motor Vehicle Account .....	5,580.10
State Highway Account.....	613,724.93
Motor Vehicle Account, Department of Motor Vehicles.....	660.00
Motor Vehicle License Fee Account .....	58,882.48
Unemployment Fund.....	326.84

Unemployment Administration Fund .....	26.71
Unemployment Compensation Disability Fund .....	549.86
Banking Fund.....	155.00
Contractor's License Fund .....	1,004.36
Fish and Game Preservation Fund.....	100.00
Special Deposit Fund; Federal Unemployment Com- pensation Account .....	70.00
State School Site Utilization Fund .....	22,218.00
Water Resources Revolving Fund.....	85,913.22
Item 48 (a) Budget Act of 1980 .....	2,275.02
Item 59 (a) Budget Act of 1980 .....	2,019.32
Item 106 (a) Budget Act of 1980 .....	31,533.50
Item 131 (a) Budget Act of 1980 .....	9,292.64
Item 172 Budget Act of 1980 .....	12,766.97
Item 190 (a) Budget Act of 1980 .....	1,385.12
Item 203 (a) Budget Act of 1980 .....	25,648.52
Item 208 (a) Budget Act of 1980 .....	545.00
Item 224 (a) Budget Act of 1980 .....	3,192.03
Item 256 (a) Budget Act of 1980 .....	1,476.33
Item 268 (a) Budget Act of 1980 .....	2,613.66
Item 275 (a) Budget Act of 1980 .....	54.40
Item 284 (a) Budget Act of 1980 .....	8,052.82
Item 295 (a) Budget Act of 1980 .....	29,378.43
Item 300 (a) Budget Act of 1980 .....	966.13
Item 304 (a) Budget Act of 1980 .....	3,524.97
Item 309 (a) Budget Act of 1980 .....	5,724.12
Item 316 (a) Budget Act of 1980 .....	27,159.15
Item 379 (a) Budget Act of 1980 .....	3,752.75
Item 393 (b) Budget Act of 1980 .....	7,953.60
Item 404 (c) Budget Act of 1980 .....	29,960.10
Item 416 (a) Budget Act of 1980 .....	5,075.00
Item 424 (a) Budget Act of 1980 .....	651.00
<b>Total .....</b>	<b>\$1,195,094.73</b>

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 ending a hardship to claimants as quickly as possible, it is necessary for this act to take effect immediately.

## CHAPTER 1298

An act to amend Sections 1226, 1756.1, 1756.2, 3504, and 3516 of, to add Section 1765 to, and to repeal Article 3 (commencing with Section 1250) of Chapter 10 of Division 1 of, the Financial Code, relating to banks, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1980. Filed with  
Secretary of State September 30, 1980.]

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

SECTION 1. Section 1226 of the Financial Code is amended to read:

1226. The limitations of Section 1221 shall not apply to the following and the following shall not be included among the obligations of a person for the purpose of applying such limitations:

(a) Loans secured by obligations of the United States or by obligations unconditionally guaranteed both as to principal and interest by the United States, having a market value at least 10 percent in excess of the loans secured thereby.

(b) Loans in an amount and of a type or class previously approved in writing by the superintendent which are secured by not less than a like amount of obligations of the United States or by obligations unconditionally guaranteed both as to principal and interest by the United States.

(c) Loans to the extent that they are covered by guarantees or by commitments to take over or to purchase without recourse made by any Federal Reserve bank or by the United States, or by any department, bureau, board, commission, agency, or establishment of the United States, including any corporation wholly owned directly or indirectly by the United States.

(d) Drafts or bills of exchange drawn in good faith against actual existing values with negotiable bills of lading attached, whether or not accepted by the drawee.

(e) Bankers' acceptances of other banks which are eligible for rediscount with a Federal Reserve bank.

(f) Obligations resulting from daily clearances through any clearinghouse association.

(g) Obligations which are fully guaranteed or fully insured or covered by a commitment to fully guarantee or fully insure by the Federal Housing Administrator.

SEC. 2. Article 3 (commencing with Section 1250) of Chapter 10 of Division 1 of the Financial Code is repealed.

SEC. 3. Section 1756.1 of the Financial Code is amended to read:

1756.1. A foreign banking corporation shall not commence to transact in this state the business of accepting deposits, or transact such business thereafter unless it has met the following

requirements:

(a) Deposits in each office in this state at which it transacts such business are insured by the Federal Deposit Insurance Corporation in accordance with the provisions of the Federal Deposit Insurance Act.

(b) It holds in this state currency, bonds, notes, debentures, drafts, bills of exchange or other evidences of indebtedness or other obligations payable in the United States or in United States funds or, with the prior approval of the superintendent, in funds freely convertible into United States funds, in an amount not less than 108 per centum of the aggregate amount of liabilities of such foreign banking corporation payable at or through its branch or branches in this state, including acceptances, but excluding (1) accrued expenses, and (2) amounts due and other liabilities to other offices or branches of, and wholly owned (except for a nominal number of directors' shares) subsidiaries of, such foreign banking corporation. For the purposes of this subdivision, the superintendent shall value marketable securities at principal amount or market value, whichever is lower, shall have the right to determine the value of any nonmarketable bond, note, debenture, draft, bill of exchange, other evidence of indebtedness, or of any other obligation held by or owed to the foreign banking corporation or its branch or branches within the state, and in determining the amount of assets for the purpose of computing the above ratio of assets to liabilities, shall have the power to exclude any particular asset but shall give credit to assets required to be maintained pursuant to this subdivision, to reserves required to be maintained by federal law, and, subject to such rules and regulations as the superintendent may from time to time promulgate, to deposits and credit balances with unaffiliated banking institutions outside this state if such deposits or credit balances are payable in United States funds or in currencies freely convertible into United States funds; provided that credit given for such deposits and credit balances shall not exceed in aggregate amount such percentage, but not less than 8 per centum, as the superintendent may from time to time prescribe of the aggregate amount of liabilities of such foreign banking corporation, determined as hereinabove provided in this subdivision. If, by reason of the existence or the potential occurrence of unusual and extraordinary circumstances, the superintendent deems it necessary or desirable for the maintenance of a sound financial condition, the protection of depositors and the public interest, and to maintain public confidence in the business of the branch or branches of a foreign banking corporation, he may, notwithstanding anything to the contrary contained in this subdivision, reduce the credit to be given as above provided for deposits and credit balances with unaffiliated banking institutions outside this state and he may require such foreign banking corporation to deposit, in accordance with such rules and regulations as he shall from time to time promulgate, the assets required to be held in this state pursuant to this subdivision with such

banks or trust companies or national banks located in this state, as such foreign banking corporation may designate and the superintendent may approve.

(c) It certifies, at such intervals of time as the superintendent may require, the amount of its shareholders' equity, expressed in the currency of the country of its incorporation, the dollar equivalent of which amount as determined by the superintendent, shall be deemed to be the amount of its shareholders' equity. Loans, purchases, and discounts of notes, bills of exchange, bonds, debentures and other obligations, and extensions of credit and acceptances by such foreign banking corporation within this state shall be subject to the same limitations as to amount in relation to shareholders' equity as may be imposed from time to time by the laws of this state upon banks and trust companies.

SEC. 4. Section 1756.2 of the Financial Code is amended to read: 1756.2. (a) In this section:

(1) "Foreign state" means any foreign government or any department, district, province, county, possession, or other similar governmental organization or subdivision of a foreign government, and any agency or instrumentality of any such foreign government or of any such organization or subdivision.

(2) "Person" means any person, firm, partnership, association, corporation, company, syndicate, estate, trust, business trust, or organization of any kind, or any branch or division thereof.

(b) Notwithstanding the provisions of Sections 1756 and 1756.1 of this code, a foreign banking corporation organized under the laws of a foreign state may transact in this state the business of accepting deposits from any foreign state or from any person which resides, is domiciled, and maintains its principal place of business in a foreign state, if:

(1) Such foreign banking corporation has complied with all of the requirements of Section 1751 of this code; and

(2) Such foreign banking corporation has received from the superintendent written approval under this section to transact such business in this state.

(c) A foreign banking corporation which transacts such business in this state shall, with respect to business transacted by it in this state, comply with and be subject to the provisions of Chapter 6 (commencing with Section 750), Chapter 7 (commencing with Section 850), Chapter 8 (commencing with Section 952), and Article 2 (commencing with Section 3370) of Chapter 18 of this division applicable to banks, and the provisions of Chapter 10 (commencing with Section 1200) of this division applicable to commercial banks.

SEC. 5. Section 1765 is added to the Financial Code, to read:

1765. Each foreign banking corporation which is licensed under this article or which maintains a federal agency or federal branch in this state is exempted from the restrictions of Section 1 of Article XV of the Constitution relating to rates of interest upon the loan or forbearance of any money, goods, or things in action or on accounts

after demand.

SEC. 6. 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 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.

(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 of 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 such as in the judgment of the superintendent may be incidental to its international or foreign business.

SEC. 7. Section 3516 of the Financial Code is amended to read:

3516. No corporation shall deposit any of its funds with any other moneyed corporation unless such other corporation has been nominated and designated as such depository as provided by Section 763. This limitation shall not apply to the deposit of funds by such corporation with another moneyed corporation, which owns all or a majority of the capital stock of such corporation.

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 to avoid imposing double reserve requirements upon commercial banks organized under the laws of this state, it is necessary that this act take effect immediately.

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## CHAPTER 1299

An act to add Section 1463.17 to the Penal Code, to amend Section 40502 of, and to add Section 40302.5 to, the Vehicle Code, and to add Section 603.5 to the Welfare and Institutions Code, relating to minors.

[Approved by Governor September 30, 1980. Filed with  
Secretary of State September 30, 1980.]

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

SECTION 1. Section 1463.17 is added to the Penal Code, to read:  
1463.17. Notwithstanding the provisions of Sections 1463, 1463.1, 1463.2, 1463.3, 1463.4, 1463.5, 1463.5a, 1463.6, 1463.7, 1463.9, 1463.10, 1463.11, 1463.12, and 1463.13, all fines and forfeitures collected from any minor by reason of any violation of the Vehicle Code classified as an infraction, or any violation of a local ordinance involving the driving or operation of a motor vehicle, shall be transferred to the general fund of the county once each month.

SEC. 2. Section 40302.5 is added to the Vehicle Code, to read:

40302.5. Whenever any person under the age of 18 years is taken into custody in connection with any traffic infraction case, and he is not taken directly before a magistrate, he shall be delivered to the custody of the probation officer. Unless sooner released, the probation officer shall keep the minor in the juvenile hall pending his appearance before a magistrate. When a minor is cited for an offense not involving the driving of a motor vehicle, the minor shall not be taken into custody pursuant to subdivision (a) of Section 40302

solely for failure to present a driver's license.

SEC. 3. Section 40502 of the Vehicle Code is amended to read:  
40502. The place specified in the notice to appear shall be either:

(a) 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.

(b) Upon demand of the person arrested, before a municipal court judge or other magistrate having jurisdiction of the offense at the county seat of the county in which the offense is alleged to have been committed or before a magistrate in the judicial district in which the offense is alleged to have been committed.

(c) Before a person authorized to receive a deposit of bail.

The clerk and deputy clerks of the municipal and justice courts are persons authorized to receive bail in accordance with a schedule of bail approved by the judges of said courts.

(d) Before the juvenile court, a juvenile court referee, or a juvenile traffic hearing officer within the county in which the offense charged is alleged to have been committed, if the person arrested appears to be under the age of 18 years. The juvenile court shall by order designate the proper person before whom such appearance is to be made.

In a county which has implemented the provisions of Section 603.5 of the Welfare and Institutions Code, if the offense alleged to have been committed by a minor is classified as an infraction under this code, or is a violation of a local ordinance involving the driving, parking, or operation of a motor vehicle, the citation shall be issued as provided in subdivision (a), (b), or (c); provided, however, that if the citation combines an infraction and a misdemeanor, the place specified shall be as provided in subdivision (d).

If the place specified in the notice to appear is within a district or city and county where a department of the municipal court is to hold a night session within a period of not more than 10 days after the arrest, the notice to appear shall contain, in addition to the above, a statement notifying the person arrested that he may appear before such a night session of the court.

SEC. 4. Section 603.5 is added to the Welfare and Institutions Code, to read:

603.5. (a) Notwithstanding any other provision of law, in counties which adopt the provisions of this section, jurisdiction over the case of a minor alleged to have committed only a violation of the Vehicle Code classified as an infraction or a violation of a local ordinance involving the driving, parking, or operation of a motor vehicle, is with the municipal or justice court, except that the municipal or justice court may refer to the juvenile court for adjudication, cases involving a minor who has been adjudicated a ward of the juvenile court, or who has other matters pending in the juvenile court. An alleged violation of subdivision (a) or (b) of Section 40508 of the Vehicle Code may be referred to the juvenile

court for adjudication.

(b) Notwithstanding this article or Articles 15 (commencing with Section 625) to 21 (commencing with Section 800), inclusive, of this chapter, except as otherwise provided in this section, all cases specified in subdivision (a) shall be governed by the general law applicable to violations of the Vehicle Code.

The provisions of this section shall apply only in a county in which the board of supervisors, with the concurrence of the presiding judges of the superior, municipal, and justice courts, adopts a resolution making the section applicable in the county.

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.

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## CHAPTER 1300

An act to amend Section 1734 of, and to add Section 1734.5 to, the Insurance Code, relating to insurance production agencies.

[Approved by Governor September 30, 1980. Filed with  
Secretary of State September 30, 1980.]

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

SECTION 1. Section 1734 of the Insurance Code is amended to read:

1734. This section applies to any person licensed, whether under a permanent license, restricted license, temporary license, or certificate of convenience, to act in any of the capacities specified in Section 1733. If fiduciary funds, as defined in Section 1733, are received by such person, he shall:

(a) Remit premiums, less commissions, and return premiums received or held by him to the insurer or the person entitled thereto, or

(b) Maintain such fiduciary funds on California business at all times in a trustee bank account or depository in California separate from any other account or depository, in an amount at least equal to the premiums and return premiums, net of commissions, received by him and unpaid to the persons entitled thereto or, at their direction or pursuant to written contract, for the account of such persons. As used in this section, "trustee bank account or depository" includes but is not limited to a checking account, demand account, or savings account, each of which shall be designated as a trust account. However, such person may commingle with such fiduciary funds in

such account or depository such additional funds as he may deem prudent for the purpose of advancing premiums, establishing reserves for the paying of return commissions or for such contingencies as may arise in his business of receiving and transmitting premium or return premium funds, or

(c) Maintain such fiduciary funds pursuant to Section 1734.5.

SEC. 2. Section 1734.5 is added to the Insurance Code, to read:

1734.5. (a) If fiduciary funds, as defined in Section 1733, are received by any person licensed, whether under a permanent license, restricted license, temporary license, or certificate of convenience, to act in any of the capacities specified in Section 1733, and the funds are not remitted, or maintained pursuant to subdivisions (a) and (b) of Section 1734, the funds shall be maintained as follows: (1) in United States government bonds and treasury certificates or other obligations for which the full faith and credit of the United States are pledged for payment of principal and interest; (2) in certificates of deposit of banks licensed by any state government within the United States, or the United States government, provided that the insurer or person entitled to the fiduciary funds consents to a specific bank; or (3) in repurchase agreements collateralized by securities issued by the United States government.

(b) As a condition to maintaining the fiduciary funds pursuant to this section, a written agreement shall be obtained from each and every insurer or person entitled thereto authorizing the maintenance and the retention of any earnings accruing on the funds.

(c) Evidence of the funds shall be maintained on California business by a bank as defined in Section 105 of the Financial Code in a custodian or trust account in California separate from any other funds, in an amount at least equal to the premiums and return premiums, net of commissions received by him or her and unpaid to the persons entitled thereto, or, at their discretion or pursuant to a written contract, for the account of these persons. However, the persons may commingle with the fiduciary funds any additional funds as he or she may deem prudent for the purpose of advancing premiums, establishing reserves for the paying of return premiums, or for any contingencies as may arise in his or her business of receiving and transmitting premium or return premium funds.

(d) The commissioner shall not have jurisdiction over any disputes arising between parties concerning the maintenance of fiduciary funds pursuant to this section. However, this subdivision shall not otherwise affect the authority granted to the commissioner over fiduciary funds by other provisions of this code, or regulations adopted pursuant thereto. As used in this subdivision, the term "parties" shall not include the commissioner.

## CHAPTER 1301

An act to amend Sections 830.6 and 832.6 of the Penal Code, relating to peace officers.

[Approved by Governor September 30, 1980 Filed with  
Secretary of State September 30, 1980 ]

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

**SECTION 1.** Section 830.6 of the Penal Code is amended to read:  
830.6. (a) (1) Whenever any qualified person is deputized or appointed by the proper authority as a reserve or auxiliary sheriff or city policeman, a deputy sheriff, or a reserve police officer of a regional park district, and is assigned specific police functions by such authority, such person is a peace officer; provided, such person qualifies as set forth in Section 832.6, and provided further, that the authority of such person as a peace officer shall extend only for the duration of such specific assignment.

(2) Whenever any qualified person is deputized or appointed by the proper authority as a reserve or auxiliary sheriff or city policeman, a deputy sheriff, or a reserve police officer of a regional park district, and is so designated by local ordinance or, if the local agency is not authorized to act by ordinance, by resolution, either individually or by class, and is assigned to the prevention and detection of crime and the general enforcement of the laws of this state by such authority, such person is a peace officer; provided such person qualifies as set forth in paragraph (1) of subdivision (a) of Section 832.6, and provided further, that the authority of such person shall include the full powers and duties of a peace officer as provided by Section 830.1.

(b) Whenever any person is summoned to the aid of any uniformed peace officer, such person shall be vested with such powers of a peace officer as are expressly delegated him by the summoning officer or as are otherwise reasonably necessary to properly assist such officer.

**SEC. 2.** Section 832.6 of the Penal Code is amended to read:

832.6. (a) On or after January 1, 1981, every person deputized or appointed as described in subdivision (a) of Section 830.6 shall have the powers of a peace officer only when such person is:

(1) Assigned to the prevention and detection of crime and the general enforcement of the laws of this state whether or not working alone and the person has completed the basic training for deputy sheriffs and police officers prescribed by the Commission on Peace Officer Standards and Training in existence at the time he or she was deputized or appointed; or

(2) Assigned to the prevention and detection of crime and the general enforcement of the laws of this state while under the immediate supervision of a peace officer possessing a basic certificate

issued by the Commission on Peace Officer Standards and Training, the person is engaged in a field training program approved by the Commission on Peace Officer Standards and Training, and the person has completed the course required by Section 832 and such other training prescribed by the commission; or

(3) Deployed only in such limited functions as would not usually require general law enforcement powers and the person has completed the training required by Section 832 or such other training prescribed by the commission.

(b) Notwithstanding the provisions of subdivision (a), a person who is issued a level I reserve officer certificate before January 1, 1981, shall have the full powers and duties of a peace officer as provided by Section 830.1 if so designated by local ordinance or, if the local agency is not authorized to act by ordinance, by resolution, either individually or by class, if the appointing authority determines the person is qualified to perform general law enforcement duties by reason of the person's training and experience.

(c) In carrying out the provisions of this section, the commission:

(1) May use proficiency testing to satisfy reserve training standards.

(2) Shall provide for convenient training to remote areas in the state.

(3) Shall establish a professional certificate for reserve officers as defined in paragraph (1) of subdivision (a) of this section, and may establish a professional certificate for reserve officers as defined in paragraphs (2) and (3) of subdivision (a) of this section.

(d) In carrying out paragraphs (1) and (3) of subdivision (c), the commission may establish and levy appropriate fees, provided the fees do not exceed the cost for administering the respective services. These fees shall be deposited in the Peace Officers' Training Fund established by Section 13520.

(e) The commission shall include an amount in its annual budget request to carry out the provisions of this section.

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## CHAPTER 1302

An act to amend Section 7149 of, to add Chapter 7.3 (commencing with Section 1740) to Division 2 of, and to repeal Section 7150.5, as added by Section 2 of Chapter 189 of the Statutes of 1979, of, the Fish and Game Code, and to add Section 4464.5 to the Health and Safety Code, relating to fish and game.

[Approved by Governor September 30, 1980. Filed with  
Secretary of State September 30, 1980]

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

SECTION 1. Chapter 7.3 (commencing with Section 1740) is added to Division 2 of the Fish and Game Code, to read:

**CHAPTER 7.3. BLACK BASS CONSERVATION AND MANAGEMENT**

1740. This chapter shall be known as the Black Bass Conservation and Management Act of 1980.

1741. The Legislature hereby finds and declares that it is the policy of the state to preserve and enhance black bass resources and to manage black bass populations to provide satisfactory recreational opportunities to the public.

1742. The Legislature further finds and declares that the black bass management program components specified in this chapter are a continuation of the department's existing warmwater fisheries program, and, as such, shall be funded from existing department budgetary resources.

1743. (a) The department's black bass management program shall include, but not be limited to, the following components:

(1) The department shall determine the angler harvest of black bass populations and shall recommend to the commission the changes in angling regulations for black bass that would be necessary to prevent or correct overharvest.

(2) The department shall consider recommending to the commission catch and release regulations for black bass, including minimum or maximum size restrictions and management for trophy-sized black bass in some waters.

(3) The department shall consider the suitability of the many different species, subspecies, and strains of black bass when management programs are formulated.

(4) The department shall improve shoreline habitat for black bass in waters where insufficient habitat exists and shall encourage reservoir operating agencies to carry out shoreline habitat improvement projects.

(b) For the purposes of this section, "black bass" means fishes of the Centrarchidae family.

SEC. 2. Section 7149 of the Fish and Game Code is amended to read:

7149. (a) A sport fishing license granting the privilege to take any fish from the ocean waters of this state and amphibia anywhere in this state for purposes other than profit shall be issued:

(1) To any resident of this state, over the age of 16 years, for the period of a calendar year, or, if issued after the beginning of the year, for the remainder thereof, upon payment of a base fee of five dollars (\$5) plus an amount calculated in accordance with Section 713. A trout and salmon license stamp, but not an inland water license stamp, is required to authorize such person to take salmon or steelhead in ocean waters.

(2) To any nonresident, over the age of 16 years, for the period of a calendar year, or, if issued after the beginning of the year, for the remainder thereof, upon payment of a base fee of twenty dollars (\$20) plus an amount calculated in accordance with Section 713. A trout and salmon license stamp, but not an inland water license stamp, is required to authorize such person to take salmon or steelhead in ocean waters.

(3) To any person, over the age of 16 years, not a resident of this state, for a period of 10 days from the date of issue, upon payment of a base fee of eight dollars (\$8) plus an amount calculated in accordance with Section 713. A trout and salmon license stamp, but not an inland water license stamp, is required to authorize such person to take salmon or steelhead in ocean waters.

(b) A sport fishing licensee may obtain an inland water license stamp which, if permanently affixed to his license, authorizes the licensee to take all fish, other than trout, steelhead trout, and salmon, anywhere in this state for purposes other than profit, upon payment of a base fee of two dollars (\$2) plus an amount calculated in accordance with Section 713.

(c) A sport fishing licensee may obtain a trout and salmon license stamp which, if permanently affixed to his license together with the inland water license stamp, authorizes the licensee to take all fish anywhere in this state for purposes other than profit, upon payment of a base fee of three dollars (\$3) plus an amount calculated in accordance with Section 713.

(d) Upon application to the Department of Fish and Game, Headquarters Office, Sacramento, the following persons shall be issued a sport fishing license authorizing the licensee to take any fish and amphibia anywhere in this state for purposes other than profit, free of charge:

(1) Any person receiving aid to the aged under the provisions of Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(2) Any person who is a resident of the state and meets one of the following requirements:

(A) Who has lost, or completely lost the use of, one or more limbs at or above the wrist or ankle.

(B) Who is so severely physically disabled as to be permanently unable to move from place to place without the aid of a wheelchair, walker, artificial limb, or forearm crutches.

(C) Who is affected by a severe physical disability or mental disorder, as defined in Section 34704 or 34704.5 of the Health and Safety Code, either permanent in nature or requiring continuing treatment of more than a one year duration; and who is receiving income support from any city, state, or federal government program for the physically or mentally disabled for this disability or disorder.

(3) Any person over 62 years of age who is a resident of the state and whose total monthly income from all sources, including any old age assistance payments, does not exceed the amount in effect on

September 1 of each year contained in subdivision (c) of Section 12201 of the Welfare and Institutions Code for single persons or subdivision (d) of Section 12201 of the Welfare and Institutions Code combined income for married persons, as adjusted pursuant to that section. The amount in effect on September 1 of each year shall be the amount used to determine eligibility for a free license during the following calendar year.

All licenses issued pursuant to paragraphs (1), (2), and (3) shall be valid for the period of a calendar year or, if issued after the beginning of the year, for the remainder thereof.

Any person applying for a free fishing license shall submit adequate documentation for the department to determine that the applicant is in fact eligible for a free fishing license. Such documentation shall be in the form of a letter or document specified by the department from a public agency, licensed physician, or any agency conducting programs on behalf of any governmental agency. The department shall not issue a free fishing license to any individual unless it is satisfied that the applicant has provided adequate evidence of eligibility for a free license.

(e) Sport fishing license stamps shall be sold by license agents in the same manner as sport fishing licenses except that the compensation provided in Section 1055 shall not be paid to the license agent for sale of such stamps.

(f) Reference in this code or any other law to a sport fishing license to be issued to disabled veterans, blind persons, or resident Indians without payment of a license fee means a renewable sport fishing license authorizing the licensee to take any fish and amphibia anywhere in this state for purposes other than profit. All other references to a sport fishing license mean such a license with or without license stamps as may be appropriate for the type of fishing involved.

(g) This section shall become operative January 1, 1980.

SEC. 3. Section 7150.5 of the Fish and Game Code, as added by Section 2 of Chapter 189 of the Statutes of 1979, is repealed.

SEC. 4. Section 4464.5 is added to the Health and Safety Code, to read:

4464.5. The State Department of Health Services may allow public fishing on any terminal reservoir if it finds that adequate means are being used to protect drinking water quality and that public fishing will have no significant effect on water quality. The State Department of Health Services shall examine all feasible means of protecting water quality on terminal reservoirs and other reservoirs where public fishing may be allowed. The State Department of Health Services may close any terminal water supply reservoir to public angling on an emergency basis, if water quality is threatened by public use.

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.

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#### CHAPTER 1303

An act to add Section 51.8 to the Civil Code, relating to discrimination.

[Approved by Governor September 30, 1980 Filed with  
Secretary of State September 30, 1980 ]

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

SECTION 1. Section 51.8 is added to the Civil Code, to read:

51.8. No franchisor shall discriminate in the granting of franchises solely because of the race, color, religion, sex, or national origin of the franchisee and the racial, ethnic, religious, or national origin composition of a neighborhood or geographic area in which the franchise is located. Nothing in this section shall be interpreted to prohibit a franchisor from granting a franchise to prospective franchisees as part of a program or programs to make franchises available to persons lacking the capital, training, business experience, or other qualifications ordinarily required of franchisees, or any other affirmative action program adopted by the franchisor.

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#### CHAPTER 1304

An act to amend Sections 1471, 1801, 1821, 1822, 1823, 1824, 1828, 1829, 1830, 1851, 1860, 1872, 1873, 1890, 2351, 2400, 2401, 2405, 2600, and 3004 of, and to add Sections 1410, 1411, 1420, 1431, 1827.5, 1828.5, 1860.5, and 2351.5 to, the Probate Code, relating to limited conservatorships, and making an appropriation therefor.

[Approved by Governor September 30, 1980. Filed with  
Secretary of State September 30, 1980 ]

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

SECTION 1. Section 1410 is added to the Probate Code, to read:

1410. "Conservator" includes a limited conservator.

SEC. 2. Section 1411 is added to the Probate Code, to read:

1411. "Conservatee" includes a limited conservatee.

SEC. 3. Section 1420 is added to the Probate Code, to read:

1420. "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. 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.

SEC. 4. Section 1431 is added to the Probate Code, to read:

1431. "Proceedings to establish a limited conservatorship" include proceedings to modify or revoke the powers or duties of a limited conservator.

SEC. 5. Section 1471 of the Probate Code, as added by Chapter 726 of the Statutes of 1979, is amended to read:

1471. (a) If a conservatee, proposed conservatee, or person alleged to lack legal capacity is unable to retain legal counsel and requests the appointment of counsel to assist in the particular matter, whether or not such person lacks or appears to lack legal capacity, the court shall, at or before the time of the hearing, appoint the public defender or private counsel to represent the interest of such person in the following proceedings under this division:

(1) A proceeding to establish a conservatorship or to appoint a proposed conservator.

(2) A proceeding to terminate the conservatorship.

(3) A proceeding to remove the conservator.

(4) A proceeding for a court order affecting the legal capacity of the conservatee.

(5) A proceeding to obtain an order authorizing removal of a temporary conservatee from the temporary conservatee's place of residence.

(b) If a conservatee or proposed conservatee does not plan to retain legal counsel and has not requested the court to appoint legal counsel, whether or not such person lacks or appears to lack legal capacity, the court shall, at or before the time of the hearing, appoint the public defender or private counsel to represent the interests of such person in any proceeding listed in subdivision (a) if, based on information contained in the court investigator's report or obtained from any other source, the court determines that the appointment would be helpful to the resolution of the matter or is necessary to protect the interests of the conservatee or proposed conservatee.

(c) In any proceeding to establish a limited conservatorship, if the proposed limited conservatee has not retained legal counsel and does not plan to retain legal counsel, the court shall immediately appoint the public defender or private counsel to represent the proposed limited conservatee. The proposed limited conservatee shall pay the cost for such legal service if he or she is able. This subdivision shall apply irrespective of any medical or psychological inability to attend the hearing on the part of the proposed limited conservatee as

allowed in Section 1825.

SEC. 6. Section 1801 of the Probate Code, as added by Chapter 726 of the Statutes of 1979, is amended to read:

1801. Subject to Section 1800:

(a) A conservator of the person may be appointed for a person who is unable properly to provide for his or her personal needs for physical health, food, clothing, or shelter, except as provided for such person as described in subdivision (d).

(b) A conservator of the estate may be appointed for a person who is substantially unable to manage his or her own financial resources or resist fraud or undue influence, except as provided for such person as described in subdivision (d). Substantial inability may not be proved solely by isolated incidents of negligence or improvidence.

(c) A conservator of the person and estate may be appointed for a person described in subdivisions (a) and (b).

(d) A limited conservator of the person or of the estate, or both, may be appointed for a developmentally disabled adult.

(1) Such limited conservatorships shall be utilized only as necessary to promote and protect the well-being of the individual, shall be designed to encourage the development of maximum self-reliance and independence of the individual, and shall be ordered only to the extent necessitated by the individual's proven mental and adaptive limitations.

(2) The conservatee of the limited conservator shall not be presumed to be incompetent and shall retain all legal and civil rights except those which by court order have been designated as legal disabilities and have been specifically granted to the limited conservator.

(3) The intent of the Legislature, as expressed in Section 4501 of the Welfare and Institutions Code, that developmentally disabled citizens of this state receive services resulting in more independent, productive, and normal lives and that such services shall be the underlying mandate of this division in its application to adults alleged to be developmentally disabled.

SEC. 7. Section 1821 of the Probate Code, as added by Chapter 726 of the Statutes of 1979, is amended to read:

1821. (a) The petition shall request that a conservator be appointed for the person or estate, or both, shall specify the proposed conservator, and shall state the reasons why the appointment is required.

(b) The petition shall set forth, so far as they are known to the petitioner, the names and addresses of the spouse and of the relatives of the proposed conservatee within the second degree.

(c) If the petition is filed by one other than the proposed conservatee, the petition shall state whether or not the petitioner is a creditor or debtor of the proposed conservatee.

(d) If the proposed conservatee is a patient in or on leave of absence from a state institution under the jurisdiction of the State Department of Mental Health or the State Department of

Developmental Services and that fact is known to the petitioner, the petition shall state that fact and name the institution.

(e) The petition shall state, so far as is known to the petitioner, whether or not the proposed conservatee is receiving or is entitled to receive benefits from the Veterans Administration.

(f) The petition may include an application for any order or orders authorized under this division, including, but not limited to, orders under Chapter 4 (commencing with Section 1870).

(g) The petition may include a further statement that the proposed conservatee is not willing to attend the hearing on the petition, does not wish to contest the establishment of the conservatorship, and does not object to the proposed conservator or prefer that another person act as conservator.

(h) In the case of an allegedly developmentally disabled adult a petitioner shall set forth the following:

(1) The nature and degree of the alleged disability, the specific duties and powers requested by or for the limited conservator, and the limitations of civil and legal rights requested to be included in the court's order of appointment.

(2) Whether or not the proposed limited conservatee is or is alleged to be developmentally disabled.

SEC. 7.5. Section 1821 of the Probate Code, as added by Chapter 726 of the Statutes of 1979, is amended to read:

1821. (a) The petition shall request that a conservator be appointed for the person or estate, or both, shall specify the name and address of the proposed conservator and the name and address of the proposed conservatee, and shall state the reasons why the appointment is required.

(b) The petition shall set forth, so far as they are known to the petitioner, the names and addresses of the spouse and of the relatives of the proposed conservatee within the second degree.

(c) If the petition is filed by one other than the proposed conservatee, the petition shall state whether or not the petitioner is a creditor or debtor of the proposed conservatee.

(d) If the proposed conservatee is a patient in or on leave of absence from a state institution under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services and that fact is known to the petitioner, the petition shall state that fact and name the institution.

(e) The petition shall state, so far as is known to the petitioner, whether or not the proposed conservatee is receiving or is entitled to receive benefits from the Veterans Administration and the estimated amount of the monthly benefit payable by the Veterans Administration for the proposed conservatee.

(f) The petition may include an application for any order or orders authorized under this division, including, but not limited to, orders under Chapter 4 (commencing with Section 1870).

(g) The petition may include a further statement that the proposed conservatee is not willing to attend the hearing on the

petition, does not wish to contest the establishment of the conservatorship, and does not object to the proposed conservator or prefer that another person act as conservator.

(h) In the case of an allegedly developmentally disabled adult a petitioner shall set forth the following:

(1) The nature and degree of the alleged disability, the specific duties and powers requested by or for the limited conservator, and the limitations of civil and legal rights requested to be included in the court's order of appointment.

(2) Whether or not the proposed limited conservatee is or is alleged to be developmentally disabled.

SEC. 8. Section 1822 of the Probate Code, as added by Chapter 726 of the Statutes of 1979, is amended to read:

1822. (a) At least 15 days before the hearing on the petition for appointment of a conservator, notice of the time and place of the hearing shall be given as provided in subdivisions (b), (c), and (d) of this section. The notice shall be accompanied by a copy of the petition.

(b) Notice shall be mailed to the following persons (other than the petitioner or persons joining in the petition):

(1) The spouse, if any, of the proposed conservatee at the address stated in the petition.

(2) The relatives named in the petition at their addresses stated in the petition.

(c) If notice is required by Section 1461 to be given to the Director of Mental Health or the Director of Developmental Services, notice shall be mailed as so required.

(d) If the petition states that the proposed conservatee is receiving or is entitled to receive benefits from the Veterans Administration, notice shall be mailed to the office of the Veterans Administration referred to in Section 2908.

(e) If the petition is for the appointment of a limited conservator, the notice or notices required by this section shall be accompanied by a copy of the petition.

(f) The court shall order that notice be given to the regional center identified in Section 1827.5.

SEC. 8.5. Section 1822 of the Probate Code, as added by Chapter 726 of the Statutes of 1979, is amended to read:

1822. (a) At least 15 days before the hearing on the petition for appointment of a conservator, notice of the time and place of the hearing shall be given as provided in subdivisions (b), (c), and (d) of this section. The notice shall be accompanied by a copy of the petition.

(b) Notice shall be mailed to the following persons (other than the petitioner or persons joining in the petition):

(1) The spouse, if any, of the proposed conservatee at the address stated in the petition.

(2) The relatives named in the petition at their addresses stated in the petition.

(c) If notice is required by Section 1461 to be given to the Director of Mental Health or the Director of Developmental Services, notice shall be mailed as so required.

(d) If the petition states that the proposed conservatee is receiving or is entitled to receive benefits from the Veterans Administration, notice shall be mailed to the office of the Veterans Administration referred to in Section 1461.5.

(e) If the petition is for the appointment of a limited conservator, the notice or notices required by this section shall be accompanied by a copy of the petition.

(f) The court shall order that notice be given to the regional center identified in Section 1827.5.

SEC. 9. Section 1823 of the Probate Code, as added by Chapter 726 of the Statutes of 1979, is amended to read:

1823. (a) If the petition is filed by a person other than the proposed conservatee, the clerk shall issue a citation directed to the proposed conservatee setting forth the time and place of hearing.

(b) The citation shall include a statement of the legal standards by which the need for a conservatorship is adjudged as stated in Section 1801 and shall state the substance of all of the following:

(1) The proposed conservatee may be adjudged unable to provide for personal needs or to manage financial resources and, by reason thereof, a conservator may be appointed for the person or estate or both.

(2) Such adjudication may affect or transfer to the conservator the proposed conservatee's right to contract, in whole or in part, to manage and control property, to give informed consent for medical treatment, and to fix a residence.

(3) The proposed conservatee may be disqualified from voting if not capable of completing an affidavit of voter registration.

(4) The court or a court investigator will explain the nature, purpose, and effect of the proceeding to the proposed conservatee and will answer questions concerning the explanation.

(5) The proposed conservatee has the right to appear at the hearing and to oppose the petition, and in the case of an alleged developmentally disabled adult, to oppose the petition in part, by objecting to any or all of the requested duties or powers of the limited conservator.

(6) The proposed conservatee has the right to choose and be represented by legal counsel and has the right to have legal counsel appointed by the court if unable to retain legal counsel.

(7) The proposed conservatee has the right to a jury trial if desired.

SEC. 10. Section 1824 of the Probate Code, as added by Chapter 726 of the Statutes of 1979, is amended to read:

1824. The citation and a copy of the petition shall be served on the proposed conservatee at least 30 days before the hearing. Service shall be made in the manner provided in Section 415.10 or 415.30 of the Code of Civil Procedure or in such manner as may be authorized

by the court. If the proposed conservatee is outside this state, service may also be made in the manner provided in Section 415.40 of the Code of Civil Procedure.

SEC. 11. Section 1827.5 is added to the Probate Code, to read:

1827.5. In the case of any proceeding to establish a limited conservatorship, within 30 days after the filing of a petition for limited conservatorship, a proposed limited conservatee, with his or her consent, shall be assessed at a regional center as provided in Chapter 5 (commencing with Section 4620) of Division 4.5 of the Welfare and Institutions Code. Such regional center shall submit a written report of its findings and recommendations to the court with copies to the proposed limited conservatee and to the petitioner. The report shall include a description of the proposed limited conservatee's specific areas, nature, and degree of disability, if any. The findings and recommendations of the regional center shall not be binding upon the court.

SEC. 12. Section 1828 of the Probate Code, as added by Chapter 726 of the Statutes of 1979, is amended to read:

1828. (a) Except as provided in subdivision (c), prior to the establishment of a conservatorship of the person or estate, or both, the court shall inform the proposed conservatee of all of the following:

- (1) The nature and purpose of the proceeding.
- (2) The establishment of a conservatorship is a legal adjudication of the conservatee's inability properly to provide for the conservatee's personal needs or to manage the conservatee's own financial resources, or both, depending on the allegations made and the determinations requested in the petition, and the effect of such an adjudication on the conservatee's basic rights.
- (3) The proposed conservatee may be disqualified from voting if not capable of completing an affidavit of voter registration.
- (4) The identity of the proposed conservator.
- (5) The nature and effect on the conservatee's basic rights of any order requested under Chapter 4 (commencing with Section 1870), and in the case of an allegedly developmentally disabled adult, the specific effects of each limitation requested in such order.
- (6) The proposed conservatee has the right to oppose the proceeding, to have the matter of the establishment of the conservatorship tried by jury, to be represented by legal counsel if the proposed conservatee so chooses, and to have legal counsel appointed by the court if unable to retain legal counsel.

(b) After the court so informs the proposed conservatee and prior to the establishment of the conservatorship, the court shall consult the proposed conservatee to determine the proposed conservatee's opinion concerning all of the following:

- (1) The establishment of the conservatorship.
- (2) The appointment of the proposed conservator.
- (3) Any order requested under Chapter 4 (commencing with Section 1870), and in the case of an allegedly developmentally

disabled adult, of each limitation requested in such order.

(c) This section does not apply where both of the following conditions are satisfied:

(1) The proposed conservatee is absent from the hearing and is not required to attend the hearing under the provisions of subdivision (a) of Section 1825.

(2) Any showing required by Section 1825 has been made.

SEC. 13. Section 1828.5 is added to the Probate Code, to read:

1828.5. (a) At the hearing on the petition for appointment of a limited conservator for an allegedly developmentally disabled adult, the court shall do each of the following:

(1) Inquire into the nature and extent of the general intellectual functioning of the individual alleged to be developmentally disabled.

(2) Evaluate the extent of the impairment of his or her adaptive behavior.

(3) Ascertain his or her capacity to care for himself or herself and his or her property.

(4) Inquire into the qualifications, abilities, and capabilities of the person seeking appointment as limited conservator.

(5) If a report by the regional center, in accordance with Section 1827.5, has not been filed in court because the proposed limited conservatee withheld his or her consent to assessment by the regional center, the court shall determine the reason for withholding such consent.

(b) If the court finds that the proposed limited conservatee possesses the capacity to care for himself or herself and to manage his or her property as a reasonably prudent person, the court shall dismiss the petition for appointment of a limited conservator.

(c) If the court finds that the proposed limited conservatee lacks the capacity to perform some, but not all, of the tasks necessary to provide properly for his or her own personal needs for physical health, food, clothing, or shelter, or to manage his or her own financial resources, the court shall appoint a limited conservator for the person or the estate or the person and the estate, and shall define the powers and duties of the limited conservator so as to permit the developmentally disabled adult to care for himself or herself or to manage his or her financial resources commensurate with his or her ability to do so.

(d) Prior to the appointment of a limited conservator for the person or estate or person and estate of a developmentally disabled adult, the court shall inform the proposed limited conservatee of the nature and purpose of the limited conservatorship proceeding, that the appointment of a limited conservator for his or her person or estate or person and estate will result in the transfer of certain rights set forth in the petition and the effect of such transfer, the identity of the person who has been nominated as his or her limited conservator, that he or she has a right to oppose such proceeding, and that he or she has a right to have the matter tried by jury. After communicating such information to the person and prior to the

appointment of a limited conservator, the court shall consult the person to determine his or her opinion concerning the appointment.

SEC. 14. Section 1829 of the Probate Code, as added by Chapter 726 of the Statutes of 1979, is amended to read:

1829. The proposed conservatee, the spouse or any relative or friend of the proposed conservatee, or any other interested person including, but not limited to, any officer or agency of this state, or of the United States, or any authorized representative thereof, may appear at the hearing to support or oppose the petition.

SEC. 15. Section 1830 of the Probate Code, as added by Chapter 726 of the Statutes of 1979, is amended to read:

1830. (a) The order appointing the conservator shall contain, among other things, the names, addresses, and telephone numbers of:

- (1) The conservator.
- (2) The conservatee's attorney, if any.
- (3) The court investigator, if any.

(b) In the case of a limited conservator for a developmentally disabled adult, any order the court may make shall include the findings of the court specified in Section 1828.5. The order shall specify the powers granted to and duties imposed upon the limited conservator, which powers and duties shall not exceed the powers and duties applicable to a conservator under this code. The order shall also specify the following:

(1) The properties of the limited conservatee to which the limited conservator is entitled to possession and management, giving a description of the properties that will be sufficient to identify them.

(2) The debts, rentals, wages, or other claims due to the limited conservatee which the limited conservator is entitled to collect, or file suit with respect to, if necessary, and thereafter to possess and manage.

(3) The contractual or other obligations which the limited conservator may incur on behalf of the limited conservatee.

(4) The claims against the limited conservatee which the limited conservator may pay, compromise, or defend, if necessary.

(5) Any other powers, limitations, or duties with respect to the care of the limited conservatee or the management of the above-specified property by the limited conservator which the court shall specifically and expressly grant.

SEC. 16. Section 1851 of the Probate Code, as added by Chapter 726 of the Statutes of 1979, is amended to read:

1851. (a) When court review is required, the court investigator shall visit the conservatee. The court investigator shall inform the conservatee personally that the conservatee is under a conservatorship and shall give the name of the conservator to the conservatee. The court investigator shall determine whether the conservatee wishes to petition the court for termination of the conservatorship, whether the conservatee is still in need of the conservatorship, whether the present conservator is acting in the

best interests of the conservatee, and whether the conservatee is capable of completing an affidavit of voter registration. If the court has made an order under Chapter 4 (commencing with Section 1870), the court investigator shall determine whether the present condition of the conservatee is such that the terms of the order should be modified or the order revoked.

(b) The findings of the court investigator, including the facts upon which the findings are based, shall be certified in writing to the court not less than 15 days prior to the date of review. A copy of the report shall be mailed to the conservator and to the attorneys of record for the conservator and conservatee at the same time it is certified to the court.

(c) In the case of a limited conservatee, the court investigator shall make a recommendation regarding the continuation or termination of the limited conservatorship.

SEC. 17. Section 1860 of the Probate Code, as added by Chapter 726 of the Statutes of 1979, is amended to read:

1860. (a) A conservatorship continues until terminated by the death of the conservatee or by order of the court.

(b) If a conservatorship is established for the person of a married minor, the conservatorship does not terminate if the marriage is dissolved or is adjudged a nullity.

(c) This section shall not apply to limited conservatorships.

SEC. 18. Section 1860.5 is added to the Probate Code, to read:

1860.5. (a) Every limited conservatorship shall continue until the authority of the conservator is terminated by one of the following:

(1) The death of the limited conservator.

(2) The death of the limited conservatee, subject to the duty of the limited conservator to see to the custody and conservation of the estate pending the delivery thereof to the person or representative of the limited conservatee's estate.

(3) By an order appointing a conservator of the former limited conservatee.

(4) By an order of the court stating that the limited conservatorship is no longer necessary for the limited conservatee and terminating the limited conservatorship.

(b) Any limited conservator, the limited conservatee, or any relative or friend of the limited conservatee may apply by verified petition to the superior court of the county in which the proceedings are pending to have the limited conservatorship terminated or to have specific powers and duties of the limited conservatorship revoked. The petition shall state the facts alleged to establish that the limited conservatorship is no longer required. The petition shall be set for hearing and notice thereof shall be given to the persons in the same manner as provided in this chapter for a petition for the appointment of a limited conservator. The limited conservator in such case, if he or she is not the petitioner or has not joined in the petition, shall be served with a notice of the time and place of the

hearing accompanied by a copy of the petition at least five days prior to the hearing. Such service shall be made in the same manner provided for in Section 415.10 or 415.30 of the Code of Civil Procedure or in such other manner as may be authorized by the court. If the limited conservator cannot, with reasonable diligence, be so served with notice, the court may dispense with notice. The limited conservator or any relative or friend of the limited conservatee may appear and oppose the petition. The court shall hear and determine the matter according to the laws and procedures relating to the trial of civil action, including trial by jury if demanded. If it is determined that the limited conservatorship is no longer required, the limited conservatorship shall cease. If the petition alleges and if it is determined that the limited conservatee is able to properly care for himself or herself and for his or her property, the court shall make such finding and enter judgment accordingly. The limited conservator may at the hearing, or thereafter on further notice and hearing, be discharged and his or her bond exonerated upon the settlement and approval of his final account by the court.

SEC. 19. Section 1872 of the Probate Code, as added by Chapter 726 of the Statutes of 1979, is amended to read:

1872. (a) Except as otherwise provided in this article, the appointment of a conservator of the estate is an adjudication that the conservatee lacks the legal capacity to enter into or make any transaction that binds or obligates the conservatorship estate.

(b) This section does not apply to limited conservatees.

(c) Except as otherwise provided in the order of the court appointing a limited conservator, the appointment does not limit the legal capacity of the limited conservatee to enter into transactions or types of transactions.

SEC. 20. Section 1873 of the Probate Code, as added by Chapter 726 of the Statutes of 1979, is amended to read:

1873. (a) In the order appointing the conservator or upon a petition filed under Section 1874, the court may by order authorize the conservatee, subject to Section 1876, to enter into such transactions or types of transactions as may be appropriate in the circumstances of the particular conservatee and conservatorship estate. The court, by order, may modify the legal capacity a conservatee would otherwise have under Section 1872 by broadening or restricting the power of the conservatee to enter into such transactions or types of transactions as may be appropriate in the circumstances of the particular conservatee and conservatorship estate.

(b) In an order made under this section, the court may include such limitations or conditions on the exercise of the authority granted to the conservatee as the court determines to be appropriate including, but not limited to, the following:

(1) A requirement that for specific types of transactions or for all transactions authorized by the order, the conservatee obtain prior approval of the transaction by the court or conservator before

exercising the authority granted by the order.

(2) A provision that the conservator has the right to avoid any transaction made by the conservatee pursuant to the authority of the order if the transaction is not one into which a reasonably prudent person might enter.

(c) The court, in its discretion, may provide in the order that, unless extended by subsequent order of the court, the order or specific provisions of the order terminate at a time specified in the order.

(d) An order under this section continues in effect until the earliest of the following times:

- (1) The time specified in the order, if any.
- (2) The time the order is modified or revoked.
- (3) The time the conservatorship of the estate is terminated.

(e) An order under this section may be modified or revoked upon petition filed by the conservator, conservatee, the spouse of the conservatee, or any relative or friend of the conservatee, or any interested person. Notice of the hearing on the petition shall be given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1.

**SEC. 21.** Section 1890 of the Probate Code, as added by Chapter 726 of the Statutes of 1979, is amended to read:

1890. (a) An order of the court under Section 1880 may be included in the order of appointment of the conservator if the order was requested in the petition for the appointment of the conservator or, except in the case of a limited conservator, may be made subsequently upon a petition made, noticed, and heard by the court in the manner provided in this article.

(b) In the case of a petition filed under this chapter requesting that the court make an order under this chapter or that the court modify or revoke an order made under this chapter, when the order applies to a limited conservatee, the order may only be made upon a petition made, noticed, and heard by the court in the manner provided by Article 3 (commencing with Section 1820) of Chapter 1.

**SEC. 22.** Section 2351 of the Probate Code, as added by Chapter 726 of the Statutes of 1979, is amended to read:

2351. (a) Subject to subdivision (b), the guardian or conservator, but not a limited conservator, has the care, custody, and control of, and has charge of the education of, the ward or conservatee.

(b) Where the court determines that it is appropriate in the circumstances of the particular conservatee, the court, in its discretion, may limit the powers and duties that the conservator would otherwise have under subdivision (a) by an order stating:

(1) The specific powers that the conservator does not have with respect to the conservatee's person and reserving the powers so specified to the conservatee; or

(2) The specific powers and duties the conservator has with respect to the conservatee's person and reserving to the conservatee

all other rights with respect to the conservatee's person that the conservator otherwise would have under subdivision (a).

(c) An order under this section (1) may be included in the order appointing a conservator of the person or (2) may be made, modified, or revoked upon a petition subsequently filed, notice of the hearing on such petition having been given for the period and in the manner provided in Chapter 3 (commencing with Section 1460) of Part 1.

SEC. 23. Section 2351.5 is added to the Probate Code, to read:

2351.5. (a) The limited conservator has the care, custody, and control of the limited conservatee, except that a limited conservator shall not have any of the following powers or controls over the limited conservatee unless such powers or controls are specifically requested in the petition for appointment of a limited conservator and granted by the court in its order appointing the limited conservator:

(1) To fix the residence or specific dwelling of the limited conservatee.

(2) Access to the confidential records and papers of the limited conservatee.

(3) To consent or withhold consent to the marriage of the limited conservatee.

(4) The right of the limited conservatee to contract.

(5) The power of the limited conservatee to give or withhold medical consent.

(6) The limited conservatee's right to control his own social and sexual contacts and relationships.

(7) Decisions concerning the education of the limited conservatee.

The limited conservator shall secure for the limited conservatee such habilitation or treatment, training, education, medical and psychological services, and social and vocational opportunity as appropriate and as will assist the limited conservatee in the development of maximum self-reliance and independence.

(b) Any limited conservator, the limited conservatee, or any relative or friend of the limited conservatee may apply by verified petition to the superior court of the county in which the proceedings are pending to have the limited conservatorship modified by the elimination or addition of any of the powers which must be specifically granted to the limited conservator pursuant to subdivision (a) above. The petition shall state the facts alleged to establish that the limited conservatorship should be modified. The granting or elimination of such powers shall be discretionary with the court.

(c) The petition shall be set for hearing and notice thereof given to the persons in the same manner as is provided in this chapter for a petition for the appointment of a limited conservator. The limited conservator, if he or she is not the petitioner or has not joined in the petition, shall be served with a notice of the time and place of the

hearing accompanied by a copy of the petition at least five days prior to the hearing. Such service shall be made in the same manner provided for in Section 415.10 or 415.30 of the Code of Civil Procedure or in such manner as may be authorized by the court. If the limited conservator cannot, with reasonable diligence, be so served with notice, the court may dispense with such notice. The limited conservator or any relative or friend of the limited conservatee may appear and oppose the petition. The court shall hear and determine the matter according to the laws and procedures relating to the trial of civil action, including trial by jury if demanded. If any such powers are granted or eliminated, new letters of limited conservatorship shall be issued reflecting such change in the limited conservator's powers.

SEC. 24. Section 2400 of the Probate Code, as added by Chapter 726 of the Statutes of 1979, is amended to read:

2400. As used in this chapter:

(a) "Conservator" means the conservator of the estate, or the limited conservator of the estate to the extent that the powers and duties of the limited conservator are specifically and expressly provided by the order appointing the limited conservator.

(b) "Guardian" means the guardian of the estate.

SEC. 25. Section 2401 of the Probate Code, as added by Chapter 726 of the Statutes of 1979, is amended to read:

2401. (a) The guardian or conservator, or limited conservator to the extent specifically and expressly provided in the appointing court's order, has the management and control of the estate and, in managing and controlling the estate, shall use ordinary care and diligence. What constitutes use of ordinary care and diligence is determined by all the circumstances of the particular estate.

(b) The guardian or conservator:

(1) Shall exercise a power to the extent that ordinary care and diligence requires that the power be exercised.

(2) Shall not exercise a power to the extent that ordinary care and diligence requires that the power not be exercised.

SEC. 26. Section 2405 of the Probate Code, as added by Chapter 726 of the Statutes of 1979, is amended to read:

2405. If the guardian or conservator, or the limited conservator to the extent specifically and expressly provided in the order appointing the limited conservator, doubts the correctness of any claim against the ward or conservatee or the estate or rejects a claim against the ward or conservatee or the estate, the guardian, conservator, or limited conservator may do either of the following:

(a) Enter into an agreement in writing with the claimant to refer the matter in controversy to a commissioner or referee who is regularly attached to the court and designated in the agreement or to a judge pro tempore designated in the agreement. The agreement shall be filed with the clerk, who shall thereupon, with the approval of the court, enter an order referring the matter to the designated person. The commissioner or referee shall have the powers of a judge

pro tempore. The designated person shall proceed promptly to hear and determine the matter in controversy by summary procedure, without any pleadings, discovery, or jury trial. The designated person shall make and file a decision in writing in which the facts found and conclusions of law shall be separately stated, and cause a copy thereof to be mailed promptly to the parties. Judgment shall be entered on the decision and shall be as valid and effective as if it had been rendered by a judge of the court in a suit against the guardian or conservator commenced by ordinary process.

(b) Enter into an agreement in writing with the claimant that a judge sitting in probate, pursuant to the agreement and with the written consent of the judge, both filed with the clerk, may hear and determine the matter in controversy pursuant to the procedure provided in subdivision (a).

SEC. 27. Section 2600 of the Probate Code, as added by Chapter 726 of the Statutes of 1979, is amended to read:

2600. As used in this chapter, unless the context otherwise requires:

(a) "Conservator" means the conservator of the estate, or the limited conservator of the estate to the extent that the powers and duties of the limited conservator are specifically and expressly provided by the order appointing the limited conservator.

(b) "Guardian" means the guardian of the estate.

SEC. 28. Section 3004 of the Probate Code, as added by Chapter 726 of the Statutes of 1979, is amended to read:

3004. "Conservator" means conservator of the estate, or limited conservator of the estate to the extent that the powers and duties of the limited conservator are specifically and expressly provided by the order appointing the limited conservator, and includes the guardian of the estate of a married minor.

SEC. 29. The sum of ten thousand dollars (\$10,000) is hereby appropriated from the General Fund to the Controller for allocation and disbursement to local agencies and school districts pursuant to Section 2231 of the Revenue and Taxation Code to reimburse them for costs mandated by the state and incurred by them pursuant to this act.

SEC. 30. It is the intent of the Legislature, if this bill and Assembly Bill 2119 are both chaptered and become effective January 1, 1981, both bills amend Section 1821 of the Probate Code, and this bill is chaptered after Assembly Bill 2119, that the amendments to Section 1821 proposed by both bills be given effect and incorporated in Section 1821 in the form set forth in Section 7.5 of this act. Therefore, Section 7.5 of this act shall become operative only if this bill and Assembly Bill 2119 are both chaptered and become effective January 1, 1981, both amend Section 1821, and this bill is chaptered after Assembly Bill 2119, in which case Section 7 of this act shall not become operative.

SEC. 31. It is the intent of the Legislature, if this bill and Assembly Bill 2119 are both chaptered and become effective January

1, 1981, both bills amend Section 1822 of the Probate Code, and this bill is chaptered after Assembly Bill 2119, that the amendments to Section 1822 proposed by both bills be given effect and incorporated in Section 1822 in the form set forth in Section 8.5 of this act. Therefore, Section 8.5 of this act shall become operative only if this bill and Assembly Bill 2119 are both chaptered and become effective January 1, 1981, both amend Section 1822, and this bill is chaptered after Assembly Bill 2119, in which case Section 8 of this act shall not become operative.

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## CHAPTER 1305

An act relating to public resources, making an appropriation therefor, and in this connection amending and supplementing the Budget Act of 1979 by amending Section 2.9B thereof, amending and supplementing the Budget Act of 1980 by adding Sections 2.8B and 2.9A thereto, amending Section 5 of Chapter 809 of the Statutes of 1980, and amending Sections 3 and 6 of Chapter 372 of the Statutes of 1980, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1980 Filed with  
Secretary of State September 30, 1980.]

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

**SECTION 1.** Section 2.9B of the Budget Act of 1979, as added by Chapter 372 of the Statutes of 1980, is amended to read:

### NEJEDLY-HART STATE, URBAN, AND COASTAL PARK BOND ACT PROGRAM

Sec. 2.9B. The following sums of money, or so much thereof as may be necessary, are hereby appropriated for expenditure during the 1980-81, 1981-82, and 1982-83 fiscal years, unless otherwise provided herein, for the programs contemplated by Section 5096.124 of the Public Resources Code, except that appropriations for studies, planning and working drawings shall be available for expenditure only during the 1980-81 fiscal year. All such appropriations shall be paid out of the State, Urban, and Coastal Park Fund.

### CAPITAL OUTLAY

#### RESOURCES

507.5B—For capital outlay, Department of Parks and Recreation, for purposes set forth in paragraph (1) of subdivision (e) of Section 5096.124 of the

Public Resources Code, payable from the State, Urban, and Coastal Park Fund .....	6,000,000
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Schedule:

- (a) Acquisition of land, leases, and  
other interests in land; acquisition  
and development of recreation  
facilities at Lake Elsinore  
State Recreation Area ..... 6,000,000

provided, that none of the funds appropriated for the projects set forth herein shall be available for expenditure unless and until such projects are recommended by the State Park and Recreation Commission and reviewed by the Secretary of the Resources Agency.

SEC. 2. Section 2.8B is added to the Budget Act of 1980, to read:

**STATE BEACH, PARK, RECREATIONAL, HISTORICAL  
FACILITIES BON ) ACT OF 1974 PROGRAM**

Sec. 2.8B. 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 shall be paid out of the State Beach, Park, Recreational, and Historical Facilities Fund of 1974.

CAPITAL OUTLAY

RESOURCES

578B—For capital outlay, Department of Parks and Recreation, for purposes set forth in subdivisions (b) and (e) of Section 5096.85 of the Public Resources Code, payable from the State Beach, Park, Recreational, and Historical Facilities Fund of 1974.....	1,800,000
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Schedule:

- (a) Atascadero State Beach—acquisition ..... 1,500,000
- (b) Bolsa Chica State Beach—bluff  
area lighting ..... 300,000

provided, 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 recommended by the State Park and Recreation Commission and reviewed by the Secretary of the Resources Agency.

Provided, further, that none of the funds appropriated in category (a) of this item may be encumbered unless and until the owner of the 7.5 acres to be acquired pursuant to category (a) agrees to donate to the state an additional parcel, consisting of approximately 12.5 acres and adjoining the 7.5-acre parcel.

LOCAL ASSISTANCE

RESOURCES

582B—For grants to counties, cities, and districts, as defined in Section 5096.84, pursuant to subdivision (a) of Section 5096.85, of the Public Resources Code, Department of Parks and Recreation, payable from the State Beach, Park, Recreational and Historical Facilities Fund of 1974 ..... 92,801  
 Unless otherwise provided herein, funds appropriated for each of the local grant projects in this item are for acquisition, development, or both.

Schedule:

Projects in San Bernardino County

(1) County of San Bernardino, Yucaipa Regional Park ..... 92,801

provided, 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 5096.89 of the Public Resources Code.

Reversion

583B—The unencumbered balance of the appropriation made by the following items shall revert to the unappropriated balance of the State Beach, Park, Recreational and Historical Facilities Fund of 1974.

(a) Item 282(30) Budget Act of 1980, County of San Bernardino, Lake Gregory Regional Park, acquisition, development, or both.

SEC. 3. Section 2.9A is added to the Budget Act of 1980, to read:

NEJEDLY-HART STATE, URBAN, AND COASTAL PARK BOND ACT PROGRAM

Sec. 2.9A. The following sums of money, or so much thereof as may be necessary, are hereby appropriated for expenditure during the 1980-81, 1981-82, 1982-83 fiscal years, unless otherwise provided herein, for the programs contemplated by Section 5096.124 of the Public Resources Code, except that appropriations for studies, planning and working drawings shall be available for expenditure only during the 1980-81 fiscal year. All such appropriations shall be paid out of the State, Urban, and Coastal Park Fund.

CAPITAL OUTLAY

RESOURCES

585A—For capital outlay, Department of Parks and Recreation, for purposes set forth in subdivisions (b) and (c) of Section 5096.124 of the Public Resources Code, payable from the State, Urban, and Coastal Park Fund ..... 1,500,000

Schedule:

(a) Stunt Ranch, more specifically identified by the Los Angeles County Assessor as Parcel Numbers 4455-23-3, 4455-24-2, and 4455-24-6, comprising 309.79 acres ..... 1,500,000

provided, that none of the funds appropriated for acquisition of parklands by this item shall be expended on the purchase of real property 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 of the Department of General Services. All material relating to implied dedication and public prescriptive rights or claims shall be retained in the files of the Department of General Services and shall be available for postaudit on a selective basis by the Attorney General.

Provided, further, that none of the funds appropriated by this item for the projects set forth herein shall be available for expenditure unless and until such projects are recommended by the State Park and Recreation Commission and reviewed by the Secretary of the Resources Agency.

Provided, further, that none of the funds appro-

priated in this item may be encumbered unless and until the department enters into an agreement for the operation and maintenance of Stunt Ranch by the National Park Service or the Nature Conservancy for a minimum period of 25 years at no cost to the state or the department enters into an interagency agreement with the Santa Monica Mountains Conservancy for acquisition of the property pursuant to subdivision (d) of Section 33204 of the Public Resources Code.

SEC. 4. Section 5 of Chapter 809 of the Statutes of 1980 is amended to read:

Sec. 5. The sum of one hundred fifty thousand dollars (\$150,000), 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.-John T. Knox Regional Shoreline Park, construction of lagoon and related landscaping ..... 150,000

SEC. 5. The funds appropriated in category (h) of Item 532 of the Budget Act of 1980 (Chapter 510 of the Statutes of 1980) shall be granted by the Department of Parks and Recreation to the East Bay Regional Park District for expenditure pursuant to the requirements of that item.

SEC. 6. Section 3 of Chapter 372 of the Statutes of 1980 is amended to read:

Sec. 3. The following sums are hereby appropriated to the Department of Parks and Recreation for the purpose of debris removal, prevention of contamination, reduction of visitor safety hazards, and protection of visitor health at and on waters adjacent to Lake Elsinore State Recreation Area:

Schedule:

- (a) The unencumbered balance of the funds appropriated by Section 2 of Chapter 1066 of the Statutes of 1976, as amended by Chapter 1145 of the Statutes of 1977 and Chapter 952 of the Statutes of 1978, and by Section 5 of Chapter 1145 of the Statutes of 1977.
- (b) Two hundred thirty-five thousand dollars (\$235,000) from the State Parks and Recreation Fund transferred from the Park and Recreation Revolving Account pursuant to paragraph (1) of subdivision (e) of Section 5010 of the Public Resources Code and which

reverted to the unencumbered balance of that account pursuant to paragraph (1), Park and Recreation Revolving Fund, of subdivision (a) of Section 11.07 of the Budget Act of 1980.

SEC. 7. Section 6 of Chapter 372 of the Statutes of 1980 is amended to read:

Sec. 6. If this bill is chaptered before a bill creating the Energy and Resources Fund, Section 1 of this act shall become operative and Section 1.5 of this act shall not become operative; if a bill creating the Energy and Resources Fund is chaptered before this bill, Section 1.5 of this act shall become operative and Section 1 of this act shall not become operative.

SEC. 8. Of the funds appropriated for the Roberti-Z'berg Urban Open-Space and Recreation Program in Section 4 of Chapter 1166 of the Statutes of 1979, the sum of thirty-five thousand ninety-one dollars (\$35,091) is hereby reappropriated to the Director of Parks and Recreation for allocation during the 1980-81 fiscal year, notwithstanding subdivision (g) of Section 5621 and Section 5630 of the Public Resources Code, as a need basis grant to the City of Santa Rosa for development of public swimming facilities in accordance with criteria approved in Section 2 of Chapter 6 of the Statutes of 1977.

SEC. 9. Notwithstanding the criteria approved in Section 2 of Chapter 6 of the Statutes of 1977, of the funds appropriated for the Roberti-Z'berg Urban Open-Space and Recreation Program in Section 4 of Chapter 1166 of the Statutes of 1979, the sum of thirty thousand dollars (\$30,000) is hereby reappropriated to the Director of Parks and Recreation for allocation during the 1980-81 fiscal year, notwithstanding subdivision (g) of Section 5621 and Section 5630 of the Public Resources Code, as a need basis grant to the City of Fontana for the planning and acquisition of lands as an addition to Jurupa Hills Regional Park; provided, however, that any moneys received by the City of Fontana during the 1980-81 fiscal year, up to thirty thousand dollars (\$30,000), for an urban open-space and recreation local grant for the same project as provided in this section, except for the appropriation made in this section, shall be reimbursed to the Department of Parks and Recreation within six months of its receipt.

SEC. 10. Notwithstanding any other provision of law, the real property acquired by the Department of Parks and Recreation pursuant to Item 512F of the Budget Act of 1978 (Chapter 359, Statutes of 1978) as amended and supplemented by Chapter 1257 of the Statutes of 1978, as amended by Section 1 of Chapter 1085 of the Statutes of 1979, consisting of Cross Mountain Park, the Huntington-Hartford Estate, North Benedict Canyon, Caballero Canyon, and the Cahuenga Peak area adjacent to Griffith Park as identified in the recreation element of the plan of the Santa Monica Mountains Comprehensive Planning Commission created pursuant to former Sec-

tion 67470 of the Government Code, and other lands which are proximate to access points and lands which are additions to existing units of the state park system, may, upon reimbursement of the state's acquisition costs, as provided in Item 512F, be transferred to the United States or to the Santa Monica Mountains Conservancy for subsequent transfer to any local public agency or nonprofit organization, at no cost to the agency or organization, which will agree to operate and maintain, or provide for the operation and maintenance of, the real property for park and recreation purposes.

SEC. 11. (a) The sum of fifty thousand dollars (\$50,000) is hereby appropriated from the State Parks and Recreation Fund to the Santa Monica Mountains Conservancy for expenditure during the 1980-81 and 1981-82 fiscal years for project planning at Lake Sherwood if Assembly Bill No. 2973 of the 1979-80 Regular Session is chaptered before this bill and transfers moneys to the State Parks and Recreation Fund, and if not, such project planning shall be funded as provided in Section 13 of this act.

(b) The conservancy shall enlist the full and voluntary cooperation of all affected landowners and local governments in conducting the planning authorized by this section.

SEC. 12. (a) Notwithstanding Section 5019.50 of the Public Resources Code, Seccombe Lake Park in the City of San Bernardino is a unit of the state park system and shall be known as Seccombe Lake State Urban Recreation Area.

(b) The Department of Parks and Recreation shall provide for the operation of the urban recreation area on a cost-sharing basis with the City of San Bernardino in accordance with the following:

(1) The city shall be responsible for an amount equal to all expenses, except the expense of law enforcement, incurred by the city in the operation of the park during the 1980-81 fiscal year, adjusted annually thereafter for changes in the California Consumer Price Index.

(2) All revenues derived from the operation of the urban recreation area shall be retained by or paid to the state for deposit in the State Parks and Recreation Fund as a reimbursement of costs incurred by the department in the operation and maintenance of the urban recreation area.

(3) The city shall be responsible for all costs of law enforcement relating to the operation and maintenance of the urban recreation area and shall furnish city police to patrol the urban recreation area during times when it is closed to the public.

(c) The Legislature hereby finds and declares that the designation and operation of Seccombe Lake Park as a unit of the state park system is a pilot program in furtherance of the development of a state policy for the provision of state park and recreation services and facilities in urban areas. As such, this section shall not be construed as precedent for the designation and operation of other urban parks as units of the state park system.

(d) Any state costs associated with the operation and mainte-

nance of the urban recreation area under this section shall be payable by appropriation from the State Parks and Recreation Fund if Assembly Bill No. 2973 of the 1979-80 Regular Session is chaptered before this bill and transfers moneys to the State Parks and Recreation Fund, and if not, such costs shall be payable as provided in Section 13 of this act.

SEC. 13. If Assembly Bill No. 2973 of the 1979-80 Regular Session is not chaptered before this bill, the appropriation of funds from the State Parks and Recreation Fund as provided in Sections 11 and 12 of this act 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 appropriation 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.

If Assembly Bill No. 2973 of the 1979-80 Regular Session is chaptered after this bill and transfers moneys to the State Parks and Recreation Fund, upon the effective date of Assembly Bill No. 2973, an amount equal to the amounts allocated in the interim between the effective date of this act and the effective date of Assembly Bill No. 2973 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 State Parks and Recreation 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 any appropriations which, but for this section, would have been made from the State Parks and Recreation Fund shall be made from that fund.

SEC. 14. 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 may provide for urgently needed acquisition and development of recreational lands and facilities at the earliest possible time, it is necessary that this act take effect immediately.

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## CHAPTER 1306

An act to amend Section 71180 of the Government Code, relating to judges.

[Approved by Governor September 30, 1980. Filed with  
Secretary of State September 30, 1980.]

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

SECTION 1. Section 71180 of the Government Code is amended to read:

71180. (a) Any vacancy in the office of judge of a municipal court shall be filled by appointment by the Governor, but no vacancy shall be deemed to exist in any such office before the time fixed in Sections 71080, 71082, and 71083 for the selection of the judges of such court and the time fixed by law for their qualification. The appointee shall hold office for the remainder of the unexpired term of his predecessor and until his successor is elected and qualifies.

If the office to which any person so appointed was not previously occupied, he shall hold office until his successor is elected at the general state election next succeeding the occurrence of the vacancy and qualifies. No successor to such appointee shall be elected at any election held within 10 months of the date of the occurrence of the vacancy.

(b) If a vacancy in the office of judge of a municipal court occurs between the last day candidacy declaration papers may be filed and the June direct primary election and that vacancy occurs because of the appointment of the incumbent judge to another office by the Governor, or because the incumbent has resigned, retired, died, or been removed from office in accordance with subdivision (b) or (c) of Section 18 of Article VI of the California Constitution, and if one or more qualified persons other than the incumbent have filed candidacy declaration papers for the office, no vacancy shall be deemed to exist for purposes of subdivision (a) and the election for the office of judge shall be postponed until the next November statewide election. If the Governor appoints the incumbent judge to another office within 59 days of the June direct primary election, and, as a result, the elections officer does not have sufficient time to remove the candidates' names from the ballot, the June direct primary election for the office shall not be deemed to have been held. At the next November statewide election, the candidate who receives the most votes shall be elected.

In order for a person's name to appear on the ballot at the next November statewide election the person shall file candidacy declaration papers and nomination papers in accordance with the provisions of Article 4 (commencing with Section 6489) of Chapter 5 of Division 6 of the Elections Code. No previously filed papers shall satisfy the requirements of this subdivision. Qualified persons who did not file nomination papers for the June direct primary election, as well as qualified persons who filed nomination papers for the June direct primary election, shall be permitted to file candidacy papers for the November statewide election.

SEC. 2. Notwithstanding Section 2231 of 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.

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## CHAPTER 1307

An act to amend Section 339 of the Code of Civil Procedure, and to amend Section 800 of the Penal Code, relating to limitation of actions.

[Approved by Governor September 30, 1980. Filed with Secretary of State September 30, 1980.]

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

SECTION 1. Section 339 of the Code of Civil Procedure is amended to read:

339. Within two years: 1. An action upon a contract, obligation or liability not founded upon an instrument of writing, except as provided in Section 2725 of the Commercial Code or subdivision 2 of Section 337 of this code; or an action founded upon a contract, obligation or liability, evidenced by a certificate, or abstract or guaranty of title of real property, or by a policy of title insurance; provided, that the cause of action upon a contract, obligation or liability evidenced by a certificate, or abstract or guaranty of title of real property or policy of title insurance shall not be deemed to have accrued until the discovery of the loss or damage suffered by the aggrieved party thereunder.

2. An action against a sheriff, coroner, or constable upon a liability incurred by the doing of an act in his official capacity and in virtue of his office, or by the omission of an official duty including the nonpayment of money collected upon an execution. But this subdivision does not apply to an action for an escape.

3. An action based upon the rescission of a contract not in writing. The time begins to run from the date upon which the facts that entitle the aggrieved party to rescind occurred. Where the ground for rescission is fraud or mistake, the time does not begin to run until the discovery by the aggrieved party of the facts constituting the fraud or mistake.

SEC. 2. Section 800 of the Penal Code is amended to read:

800. An indictment for any felony, except murder, voluntary manslaughter, involuntary manslaughter, the embezzlement of public money, the acceptance of a bribe by a public official or a public employee, grand theft, forgery, the falsification of public records, a violation of Section 72, 118, 118a, 132, 134, 209, or 288 of the Penal Code, Section 25540 or 25541 of the Corporations Code, or Section 1090 or 27443 of the Government Code, shall be found, an information filed, or case certified to the superior court within three

years after its commission. An indictment for the acceptance of a bribe by a public official or a public employee, a felony, shall be found, an information filed, or case certified to the superior court within six years after its commission. An indictment for grand theft, forgery, voluntary manslaughter, or involuntary manslaughter, a violation of Section 72, 118, 118a, 132 or 134, of the Penal Code, Section 25540 or 25541 of the Corporations Code, or Section 1090 or 27443 of the Government Code, shall be found, an information filed, or case certified to the superior court within three years after its discovery. An indictment for a violation of Section 288 of the Penal Code shall be found, an information filed, or case certified to the superior court within five years after its commission.

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## CHAPTER 1308

An act to amend Sections 984, 985, 3012, 3252, 3254, 3254.5, 3255, and 3260 of the Unemployment Insurance Code, relating to unemployment disability compensation, and making an appropriation therefor.

[Approved by Governor September 30, 1980. Filed with  
Secretary of State September 30, 1980 ]

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

SECTION 1. Section 984 of the Unemployment Insurance Code is amended to read:

984. (a) (1) For calendar year 1981 each worker shall pay worker contributions at the rate of six-tenths of 1 percent with respect to the wages the worker is required to report pursuant to Section 927.5 and the wages paid to him or her by each employer for employment after his or her employer has satisfied the conditions set forth in this part with respect to becoming an employer.

(2) The rate of worker contributions for each calendar year commencing with the calendar year 1982 shall be the rate of worker contributions for the immediately preceding calendar year adjusted by the director pursuant to paragraphs (3) and (4), but in no event shall such rate exceed 1 percent nor be less than one-tenth of 1 percent. On or before October 31, 1981, and on or before October 31 of each subsequent calendar year, the director after making the adjustments in the rate of worker contributions for the specified preceding calendar year as required by paragraphs (3) and (4), shall prepare a statement which shall be a public record, declaring the rate of worker contributions for the calendar year and shall notify promptly all employers of employees covered for disability insurance of the rate.

(3) If the director finds that as of June 30th immediately preceding a calendar year the balance in the Disability Fund divided

by the disbursements from that fund for the 12-month period ending on such June 30th equals or exceeds that fund adequacy percentage which appears on any line in column 1 of the following table but is less than that fund adequacy percentage which appears on the same line in column 2 of that table, the director shall adjust the rate of worker contributions for the calendar year which includes such June 30th by the percentage appearing on that same line in column 3 of that table for the purpose of determining the rate of worker contributions for the calendar year next succeeding such June 30th.

Line	Fund Adequacy		Rate Adjustment
	Column 1	Column 2	Column 3
1.....	80%	No limitation	-0.3%
2.....	65%	80%	-0.2%
3.....	50%	65%	-0.1%
4.....	25%	50%	0.0%
5.....	20%	25%	0.1%
6.....	15%	20%	0.2%
7.....	Less than 15%		0.3%

(4) If the director finds that the fund adequacy percentage computed by dividing the balance in the Disability Fund as of December 31st of a calendar year by the disbursements from that fund for the 12-month period ending on such December 31st, when subtracted from the fund adequacy percentage computed by dividing the balance in the Disability Fund on the next succeeding June 30th by the disbursements from that fund for the 12-month period ending on such June 30th, equals or exceeds that percentage which appears on any line in column 1 of the following table but is less than the percentage which appears on the same line in column 2 of that table, the director shall adjust the rate of worker contributions for the calendar year which includes such June 30th by the percentage appearing on that same line in column 3 of that table, for the purpose of determining the rate of worker contributions for the calendar year next succeeding such June 30th.

Line	Difference in Fund Adequacy		Rate Adjustment
	Column 1	Column 2	Column 3
1.....	-15% or more		0.4%
2.....	-10%	-15%	0.3%
3.....	-5%	-10%	0.2%
4.....	Less than 0.0%	-5%	0.1%
5.....	0.0%	5%	0.0%
6.....	5%	10%	-0.0%
7.....	10%	15%	-0.1%
8.....	15%	20%	-0.2%
9.....	20% or more		-0.3%

(b) Worker contributions required under Sections 708 and 708.5 shall be at a rate determined by the director to reimburse the Disability Fund for unemployment compensation disability benefits paid and estimated to be paid to all employers and self-employed individuals covered by those sections. On or before November 30th of each calendar year, the director shall prepare a statement, which shall be a public record, declaring the rate of contributions for the succeeding calendar year for all employers and self-employed individuals covered under Sections 708 and 708.5 and shall notify promptly such employers and self-employed individuals of the rate. The rate shall be determined by dividing the estimated benefits paid in the prior year by the product of the annual remuneration deemed to have been received under Sections 708 and 708.5 and the estimated number of persons who were covered at any time in the prior year. The resulting rate shall be rounded to the next higher one-hundredth percentage point. The rate may also be reduced or increased by a factor estimated to maintain as nearly as practicable a cumulative zero balance in the funds contributed pursuant to Sections 708 and 708.5. Estimates made pursuant to this subdivision may be made on the basis of statistical sampling, or other method determined by the director.

(c) The director's action in determining a rate under this section shall not constitute an authorized regulation.

SEC. 2. Section 985 of the Unemployment Insurance Code is amended to read:

985. Section 984 shall not apply to that part of the remuneration which, after remuneration with respect to employment equal to four times the highest figure for highest quarter wages specified in column A of Section 2655 for each calendar year has been paid to an individual by an employer, is paid to such individual by such employer.

SEC. 2.5. Section 3012 of the Unemployment Insurance Code is amended to read:

3012. (a) All money in the disability fund is continuously appropriated without regard to fiscal years for the purpose of providing disability benefits pursuant to this part, including the payment of refunds, credits, or judgments, and interest thereon, the payment of disability benefits to all eligible persons not covered exclusively by an approved voluntary plan, and the payment of the expenses of administration of this part and Sections 17061 and 17061.5 of the Revenue and Taxation Code by the department and the Franchise Tax Board. "Eligible persons" as used in this section, means those individuals who are covered by the disability fund at the time their period of disability commences, or whose employment has terminated or who are in noncovered employment at the time their period of disability commences, and who are otherwise eligible for benefits under this part.

(b) For the purpose of keeping a record of the payments to and the disbursements from the disability fund with respect to the

payment of benefits to persons whose employment has terminated or who are in noncovered employment at the time their period of disability commences, the director shall maintain the Unemployed Disabled Account in the disability fund. This account shall be credited with 12 percent of the product obtained by multiplying the rate of worker contributions as determined in Section 984, by the amount of the taxable wages paid to employees covered by voluntary plans for disability benefits for each calendar year. This account shall also be credited with an amount equal to 12 percent of the product obtained by multiplying the rate of worker contributions as determined in Section 984, by the amount of the taxable wages paid to employees covered by the disability fund for each calendar year. This account shall be charged each calendar year with disbursements from the disability fund for the payment of benefits and the additional administrative costs of the payment of benefits to persons whose employment has terminated or who are in noncovered employment at the time their period of disability commences.

SEC. 3. Section 3252 of the Unemployment Insurance Code is amended to read:

3252. (a) Except as provided by subdivision (b) of this section, neither an employee nor his or her employer shall be liable for the worker contributions required under this division with respect to wages paid by the employer while the employee is covered by an approved voluntary plan.

(b) Each voluntary plan shall pay to the department for the Disability Fund 14 percent of the product obtained by multiplying the rate of worker contributions, as determined in Section 984, by the amount of the taxable wages paid to employees covered by the voluntary plan for disability benefit coverage for each calendar year. Such payments shall not constitute a part of the voluntary plan premium for purposes of any tax under any provision of law. Payments under this section shall be deposited in the Disability Fund.

(c) The payments made under subdivision (b) of this section in excess of the credit to the unemployed disabled account made pursuant to Section 3012 shall reimburse the Disability Fund for the amounts paid for administrative costs arising out of voluntary plans as determined pursuant to Section 3269, and the aggregate amount paid as refunds and credits made to employees applicable to voluntary plans pursuant to Section 1176 as determined pursuant to Section 3266.

(d) Each voluntary plan shall file with the director within the time required for payments under subdivision (e) of this section, a return containing the employer's business name, address, and account number, and such other information as the director shall prescribe. The director shall prescribe the form for the return.

(e) Payments required under this section 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.

(f) The provisions of Article 8 (commencing with Section 1126) of Chapter 4 of Part 1 of this division with respect to the assessment of contributions and the provisions of Chapter 7 (commencing with Section 1701) of Part 1 of this division with respect to the collection of contributions shall apply to payments required by this section.

(g) Whenever the director believes that a change in the percentage rate of payment specified in subdivision (b) may be necessary, he or she shall inform the Governor and the Legislature thereof and make recommendations accordingly.

SEC. 4. Section 3254 of the Unemployment Insurance Code is amended to read:

3254. The Director of Employment Development shall approve any voluntary plan, except one filed pursuant to Section 3255, as to which he or she finds that there is at least one employee in employment and all of the following exist:

(a) The rights afforded to the covered employees are greater than those provided for in Chapter 2 (commencing with Section 2625) of this part.

(b) The plan has been made available to all of the employees of the employer employed in this state or to all employees at any one distinct, separate establishment maintained by the employer in this state. "Employees" as used in this subdivision includes such individuals in partial or other forms of short-time employment and employees not in employment as the Director of Employment Development shall prescribe by authorized regulations.

(c) A majority of the employees of the employer employed in this state or a majority of the employees employed at any one distinct, separate establishment maintained by the employer in this state have consented to the plan.

(d) If the plan provides for insurance the form of the insurance policies to be issued have been approved by the Insurance Commissioner and are to be issued by an admitted disability insurer.

(e) The employer has consented to the plan and has agreed to make the payroll deductions required, if any, and transmit the proceeds to the plan insurer, if any.

(f) The plan provides for the inclusion of future employees.

(g) The plan will be in effect for a period of not less than one year and, thereafter, continuously unless the Director of Employment Development finds that the employer or a majority of its employees employed in this state covered by the plan have given notice of the termination of the plan. The notice shall be filed in writing with the Director of Employment Development and shall be effective only on the anniversary of the effective date of the plan next following the filing of the notice, but in any event not less than 30 days from the time of the filing of the notice; except that the plan may be terminated on the operative date of any law increasing the benefit amounts provided by Sections 2653 and 2655 or the operative date of any change in the rate of worker contributions as determined by

Section 984, if notice of the termination of the plan is transmitted to the Director of Employment Development not less than 30 days prior to the operative date of such law or change. If the plan is not terminated on such 30 days' notice because of the enactment of a law increasing benefits or because of a change in the rate of worker contributions as determined by Section 984, the plan shall be amended to conform to such increase or change on the operative date of the increase or change.

(h) The amount of deductions from the wages of an employee in effect for any plan shall not be increased on other than an anniversary of the effective date of the plan except to the extent that any increase in the deductions from the wages of an employee allowed by Section 3260 permits such amount to exceed the amount of deductions in effect.

(i) The approval of the plan or plans will not result in a substantial selection of risks adverse to the Disability Fund.

SEC. 5. Section 3254.5 of the Unemployment Insurance Code is amended to read:

3254.5. A voluntary plan in force and effect at the time a successor employing unit acquires the organization, trade, or business, or substantially all the assets thereof, or a distinct and severable portion of such organization, trade, or business, and continues its operation without substantial reduction of personnel resulting from such acquisition, shall not terminate without specific request for cancellation thereof. The successor employing unit and the insurer shall be deemed to have consented to the provisions of the plan unless written request for cancellation, effective as of the date of acquisition, is transmitted to the Director of Employment Development, by the employer or the insurer, within 30 days after the acquisition date, or within 30 days after notification from the Director of Employment Development that the plan is to continue, whichever is later. Unless the plan is terminated as of the date of acquisition by the successor employer or the insurer, a written request for cancellation shall be effective only on the anniversary of the effective date of the plan next occurring on or after the date of acquisition, except that the plan may be terminated on the operative date of any law increasing the benefit amounts provided by Sections 2653 and 2655 or the operative date of any change in the rate of worker contributions as determined by Section 984, if notice of the termination of the plan is transmitted to the Director of Employment Development not less than 30 days prior to the operative date of such law or change. If the plan is not terminated on such 30 days' notice because of the enactment of a law increasing benefits or because of a change in the rate of worker contributions as determined by Section 984, the plan shall be amended to conform to such increase or change on the operative date of the increase or change. Promptly upon notice of change in ownership any insurer of such a plan shall prepare and issue policy forms and amendments as required, unless the plan is canceled. Nothing herein contained shall

prevent future cancellation of any such plans on an anniversary of the effective date of the plan upon 30 days' notice, except that the plan may be terminated on the operative date of any law increasing the benefit amounts provided by Sections 2653 and 2655 or the operative date of any change in the rate of worker contributions as determined by Section 984, if notice of the termination of the plan is transmitted to the Director of Employment Development not less than 30 days prior to the operative date of such law or change. If the plan is not terminated on such 30 days' notice because of the enactment of a law increasing benefits or because of a change in the rate of worker contributions as determined by Section 984, the plan shall be amended to conform to such increase or change on the operative date of the increase or change.

SEC. 6. Section 3255 of the Unemployment Insurance Code is amended to read:

3255. When workers are engaged in an employment that normally involves working for several employers in the same industry interchangeably, and several employers or some of them cooperate to establish a plan for the payment of wages at a central place or places, and have appointed an agent under Section 1096, such agent, or a majority of workers regularly paid through such central place or places, or both, may apply to the Director of Employment Development for approval of a voluntary plan for the payment of disability benefits applicable to all employees whose wages are paid at one or more such central place or places. The Director of Employment Development shall approve any voluntary plan under this section as to which he or she finds that all of the following exist:

(a) The rights afforded to the covered employees are greater than those provided for in Chapter 2 (commencing with Section 2625) of this part, and are separately stated and designated "unemployment compensation disability benefits" separate and distinct from other benefits, if any.

(b) The plan applies to all employees whose wages are paid at such central place or places with respect to all employment for which wages are paid at such central place or places.

(c) Seventy-five percent of the workers regularly paid at the central place or places have consented to the plan prior to the filing of the initial application for approval.

(d) If the plan provides for insurance the form of the insurance policies to be issued have been approved by the Insurance Commissioner and are to be issued by an admitted disability insurer.

(e) All employers paying wages through the central place or places have agreed to participate in the plan and the agent appointed under Section 1096 has agreed to make the payroll deductions required, if any, and transmit the proceeds to the plan insurer, if any.

(f) The plan provides for the inclusion of all future employees paid at the central place or places.

(g) The plan is to be in effect for a period of not less than one year

and, thereafter, continuously unless the Director of Employment Development finds that the agent or a majority of the employees regularly paid at the central place or places has given written notice of termination of the plan. Such notice shall be filed in writing with the Director of Employment Development at least 30 days before it is to become effective and, upon the filing, shall be effective only as to wages paid after the beginning of the calendar quarter next occurring on or after the anniversary of the effective date of the plan; except that the plan may be terminated on the operative date of any law increasing the benefit amounts provided by Sections 2653 and 2655 or the operative date of any change in the rate of worker contributions as determined by Section 984, if notice of the termination of the plan is transmitted to the Director of Employment Development not less than 30 days prior to the operative date of such law or change. If the plan is not terminated on such 30 days' notice because of the enactment of a law increasing benefits or because of a change in the rate of worker contributions as determined by Section 984, the plan shall be amended to conform to such increase or change on the operative date of the increase or change.

(h) The amount of deductions from the wages of an employee in effect for any plan shall not be increased on other than an anniversary of the effective date of the plan except to the extent that any increase in the deductions from the wages of an employee allowed by Section 3260 permits such amount to exceed the amount of deductions in effect.

(i) The approval of the plan or plans will not result in a substantial selection of risks adverse to the Disability Fund.

SEC. 7. Section 3260 of the Unemployment Insurance Code is amended to read:

3260. An employer may, but need not, assume all or part of the cost of the plan, and may deduct from the wages of an employee covered by the plan, for the purpose of providing the disability benefits specified in this part, an amount not in excess of that which would be required by Sections 984 and 985 if the employee were not covered by the plan, except that for the calendar years 1981 and 1982, an employer may deduct from the wages of an employee an amount not in excess of 1 percent of such wages. Any such deductions from the wages of an employee remaining in the possession of the employer upon termination of the plan, as a result of plan contributions being in excess of plan costs, which are not disposed of in conformity with authorized regulations of the director, shall be remitted to the department and deposited in the Disability Fund. If an employer fails to remit any such deductions to the Disability Fund, the director shall assess the amount thereof against the employer. The provisions of Article 8 (commencing with Section 1126) of Chapter 4 of Part 1 of this division with respect to the assessment of contributions and the provisions of Chapter 7 (commencing with Section 1701) of Part 1 of this division with

respect to the collection of contributions shall apply to assessments provided by this section, except that interest shall not accrue until 30 days after notice of assessment. With respect to individuals covered by a voluntary plan on January 1st of a calendar year for which the limitation on taxable wages under Section 985 is increased or the tax rate under Section 984 is increased, the amount of the deduction on or after that date may be increased to apply to not more than the maximum limitation on taxable wages or to not more than the maximum tax rate without any further consent of the individual or approval of the director, but only if such increase in the amount of the deduction is made immediately effective as of January 1st of that particular year.

SEC. 8. The director shall report to the Legislature by March 1, 1982, concerning the experience of voluntary plan employers during the calendar year 1981. Such report shall include, but not be limited to, the number of voluntary plans in effect during 1981, any increase or decrease in the number of such plans, the number of workers covered by such plans, and the total contributions to, and benefits paid by, such plans.

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## CHAPTER 1309

An act to amend Sections 11550 and 11552 of the Government Code, and to amend Section 1198.3 of the Labor Code, relating to state government.

[Approved by Governor September 29, 1980 Filed with  
Secretary of State September 30, 1980 ]

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

SECTION 1. Section 11550 of the Government Code is amended to read:

11550. An annual salary of thirty-five thousand dollars (\$35,000) shall be paid to each of the following:

- (a) Director of Finance
- (b) Secretary of Business and Transportation Agency
- (c) Secretary of Resources Agency
- (d) Secretary of Health and Welfare Agency
- (e) Secretary of Agriculture and Services Agency
- (f) Director of Industrial Relations
- (g) Commissioner, California Highway Patrol

SEC. 2. 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 Food and Agriculture
- (j) Director of Corrections
- (k) Director of General Services
- (l) Director of Motor Vehicles
- (m) Director of Youth Authority
- (n) Members of the Public Utilities Commission
- (o) Director of Employment Development
- (p) Director of Alcoholic Beverage Control
- (q) Director of Housing and Community Development
- (r) Director of Alcohol and Drug Abuse
- (s) Director of the Office of Statewide Health Planning and Development

SEC. 2.5. 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 Motor Vehicles
- (l) Director of the Youth Authority
- (m) Members of the Public Utilities Commission
- (n) Director of Employment Development
- (o) Director of Alcoholic Beverage Control
- (p) Director of Housing and Community Development
- (q) Director of Alcohol and Drug Abuse
- (r) Director of the Office of Statewide Health Planning and Development

SEC. 3. Section 1198.3 of the Labor Code is amended to read:

1198.3. (a) The Chief of the Division of Labor Standards Enforcement may, when in his judgment hardship will result, exempt any employer or employees from any mandatory day or days off requirement contained in any order of the commission. Any exemption granted by the chief pursuant to this section shall be only of sufficient duration to permit the employer or employees to comply with the requirements contained in the order of the

commission, but not more than one year. The exemption may be renewed by the chief only after he has investigated and is satisfied that a good faith effort is being made to comply with the order of the commission.

(b) No employer shall discharge or in any other manner discriminate against any employee who refuses to work hours in excess of those permitted by the order of the commission.

(c) 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. It is the intent of the Legislature, if this bill and Assembly Bill No. 2259 are both chaptered and become effective January 1, 1981, both bills amend Section 11552 of the Government Code, and this bill is chaptered after Assembly Bill No. 2259, that the amendments to Section 11552 proposed by both bills be given effect and incorporated in Section 11552 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 Assembly Bill No. 2259 are both chaptered and become effective January 1, 1981, both amend Section 11552, and this bill is chaptered after Assembly Bill No. 2259, in which case Section 2 of this act shall not become operative.

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## CHAPTER 1310

An act to amend Section 621 of the Evidence Code, relating to paternity, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1980. Filed with  
Secretary of State September 30, 1980.]

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

SECTION 1. Section 621 of the Evidence Code is amended to read:

621. (a) Except as provided in subdivision (b), the issue of a wife cohabiting with her husband, who is not impotent or sterile, is conclusively presumed to be a child of the marriage.

(b) Notwithstanding the provisions of subdivision (a), if the court finds that the conclusions of all the experts, as disclosed by the evidence based upon blood tests performed pursuant to Chapter 2 (commencing with Section 890) of Division 7 are that the husband is not the father of the child, the question of paternity of the husband shall be resolved accordingly.

The notice of motion for blood tests under this subdivision shall only be raised by the husband and shall be raised not later than two years from the date of birth of the child.

The notice of motion for the blood tests pursuant to this subdivision

must be supported by a declaration under oath submitted by the moving party stating the factual basis for placing the issue of paternity before the court. This requirement shall not apply to any case pending before the court on the effective date of the amendment to this section adopted at the 1979-80 Regular Session of the Legislature.

The provisions of this subdivision shall not apply to any case which has reached final judgment of paternity on the effective date of the amendment to this section adopted at the 1979-80 Regular Session of 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 avoid the unjust application of the conclusive presumption contained in Section 621 of the Evidence Code to existing situations, it is necessary that this act go into immediate effect.

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#### CHAPTER 1311

An act to amend Sections 303, 330.5, 361.5, 366.3, 366.5, 16525, and 16527 of the Welfare and Institutions Code and to amend Section 28 of Chapter 977 of the Statutes of 1976, relating to family protection, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1980. Filed with  
Secretary of State September 30, 1980.]

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

SECTION 1. Section 303 of the Welfare and Institutions Code is amended to read:

303. (a) Each year the State Department of Social Services shall prepare and issue a report on foster care in California. The report shall be based on a sample of foster children drawn from counties which collectively include at least 65 percent of all the foster children in this state. The report shall include an analysis, evaluation or estimate of each of the following, on a statewide basis, as it deems appropriate:

- (1) The number of foster children;
- (2) The amount of funds expended by federal, state and local government for maintenance payments to foster parents, group homes and institutions;
- (3) The amount of funds expended by federal, state and local government on services to foster children and their natural parents or guardians;

(4) The types of services being offered to parents and their children in order to keep the family together;

(5) The number of foster children who are of adoptable age, the number of such children adopted, and the number of foster children determined not to be adoptable and the reasons therefor;

(6) The number of foster children placed in permanent foster care or guardianship;

(7) The size of caseloads of probation officers and social workers, the effect such caseloads have on the services offered to parents or their children, and the effectiveness of such services;

(8) The movement of foster children within the program from placement to placement;

(9) The foster care-related qualifications, education, and in-service training of social workers and probation officers who handle such cases;

(10) Any other matters relating to foster children which the department deems appropriate to be included in such report. The report shall be submitted to the Governor and Legislature concurrently with submission of the report required by Section 29 of Chapter 977 of the Statutes of 1976. If the department excludes any of the information required herein, it shall explain why it was not included, whether it believes it is appropriate to include such information, and an estimate of any costs to the state or counties for the collection of such information.

(b) All personal information and records obtained by the department pursuant to this section shall be confidential and may be disclosed only in those instances designated in Section 10850.

(c) Any person may bring an action against an individual who has willingly and knowingly released confidential information or records concerning him in violation of the provisions of this section, 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. 2. Section 330.5 of the Welfare and Institutions Code is amended to read:

330.5. In any case in which a probation officer or social worker in a county welfare department of a demonstration county designated pursuant to Section 272, after investigation of an application for petition or other investigation he is authorized to make, concludes that a minor is within the jurisdiction of the juvenile court pursuant to Section 300 or probably will soon be within such jurisdiction, he

may, in lieu of filing a petition or subsequent to the dismissal of a petition already filed, and with the consent of the minor's parent or guardian, undertake a program of supervision of the minor and his family. If such a program is undertaken, the probation officer or social worker shall attempt to ameliorate the situation which brings the minor within the jurisdiction of Section 300 by providing all appropriate services. Any time after the family has unreasonably refused to cooperate with the services being provided, the probation officer or social worker may file a petition to the court. In any event, if after six months the minor is believed to be within the jurisdiction of Section 300, the probation officer or social worker shall file a petition. Nothing in this section shall be construed to prevent the probation officer or social worker from filing a petition at any time within such six-month period.

SEC. 3. Section 361.5 of the Welfare and Institutions Code is amended to read:

361.5. (a) In a demonstration county, in all cases wherein a minor is adjudged a dependent child of the court, on the ground that he is a person described by Section 300 or 302, the court may limit the control to be exercised over such dependent by any parent or guardian and shall by its order clearly and specifically set forth all such limitations, but such limitations shall not exceed those necessary to protect the child.

(b) No dependent child shall be taken from the physical custody of his parents or guardians unless upon the hearing the juvenile court of a demonstration county finds clear and convincing evidence that:

(1) There is a substantial danger to the physical health of the minor and there are no reasonable means by which the minor's physical health may be protected without removing the minor from his parents' or guardians' physical custody; or

(2) The parents or guardians of the minor are unwilling to have physical custody of the minor, there are no reasonable means which would enable the minor to be returned to their physical custody, and the parents or guardians have been notified that if the minor remains out of their physical custody for the period specified in Section 366.5, the minor may be declared permanently free from their custody and control under Section 232.1 of the Civil Code; or

(3) The minor is suffering severe emotional damage indicated by extreme anxiety, depression, withdrawal, or untoward aggressive behavior against others and there are no reasonable means by which the minor's emotional health may be protected without removing the minor from his parents' or guardians' physical custody.

(4) In any action under paragraph (1), (2) or (3) of subdivision (b), the specified factual grounds shall include, where appropriate, the refusal or failure of the parents or guardians to accept reasonable services, which refusal shall justify removal if the statutory grounds are otherwise met. The court shall specify the factual grounds established to support these findings and enter such in the permanent records of the court.

(c) If the minor is taken from the physical custody of his parents or guardians and unless the minor is placed with relatives, the minor shall be placed in foster care in the county of residence of his parents or guardians in order to facilitate reunification of the family. If the probation officer or social worker in a county welfare department of a demonstration county designated pursuant to Section 272 cannot find a suitable placement within the county and seeks to place the minor outside the county, the probation officer or social worker shall serve written notice on the parents or guardians in the same manner as provided in Section 366.3 at least seven days prior to such placement. Such notice shall state the reasons which require such placement outside the county. The parents or guardians may object to such placement not later than seven days after receipt of such notice and, upon such objection, the court shall hold a hearing not later than five days after such objection and prior to such placement. The court shall order out-of-county placement if it finds that the minor's particular needs require placement outside the county.

(d) The juvenile court of a demonstration county shall order that the probation officer or social worker in a county welfare department designated pursuant to Section 272 provide to the minor's parents or guardians services which can reasonably be expected to facilitate the return of the minor to his family.

SEC. 4. Section 366.3 of the Welfare and Institutions Code is amended to read:

366.3. In a demonstration county, every hearing in which an order is made adjudging a minor a dependent child of the juvenile court pursuant to Section 300 or 302 and every subsequent hearing in which such an order is made, except a hearing at which the court orders the termination of its jurisdiction over such minor, shall be continued to a specific future date not more than six months after the date of such order. The continued hearing shall be placed on the appearance calendar. The probation officer or social worker in a county welfare department designated pursuant to Section 272 shall provide appropriate services to the minor and his parents or guardians and, at least 16 days prior to the hearing, file a supplemental report of the services offered to the family, the progress made, and, where relevant, the prognosis for return of the child to the physical custody of his parents or guardians, and make his recommendation for disposition. The court shall advise all persons present of the date of the future hearing and of their right to be present, to be represented by counsel, where relevant, and, at least 14 days prior to the hearing, where relevant, of any facts which justify the continued removal of the minor pursuant to Section 361.5 and shall include a copy of the social worker's or probation officer's report to the court. At each review hearing, no minor shall be taken or kept out of the physical custody of his parents or guardians without a showing of the current existence of facts which justify the removal under the standards of Section 361.5. The court shall review the probation officer's or social worker's report; shall consider the efforts

or progress demonstrated by the parents or guardians and the extent to which they cooperated and availed themselves of services provided; shall make appropriate findings, and where relevant, shall order any additional services reasonably believed to facilitate the return of the minor to the custody of his parents or guardians. All such findings shall be entered in the permanent records of the court. Notice of hearing shall be mailed by the probation officer or social worker to the same persons as in an original proceeding and to counsel of record by certified mail addressed to the last known address of the person to be notified, or shall be personally served on such persons, not earlier than 30 days preceding the date to which the hearing was continued.

The required 6-month hearing shall only be applicable for (1) a minor declared a dependent child of the juvenile court on or after July 1, 1977, or (2) a minor voluntarily placed by his parents pursuant to Chapter 5.5 (commencing with Section 16550) of Part 4 of Division 9 on or after such date and where the minor is under 14 years of age at the time of the juvenile court jurisdictional hearing on the voluntary placement. For all other minors, the hearings shall be continued to a specific future date not more than one year after the date of such order.

SEC. 5. Section 366.5 of the Welfare and Institutions Code is amended to read:

366.5. (a) In order to provide minors described in this section with a stable and permanent environment, the juvenile court of a demonstration county shall follow the procedure set forth in subdivision (d) of this section.

(b) The juvenile court of a demonstration county shall commence proceedings under subdivision (d) in the case of a minor who has been taken from the physical custody of his parents or guardians under Section 361.5 and has remained out of their physical custody for 12 consecutive months, such time to be computed from the date the court ordered the minor removed from the physical custody of his parents or guardians, and the minor was less than two years of age at the time of removal.

Physical custody of the minor by his parents or guardians for insubstantial periods during the 12-month period will not serve to interrupt the running of such period.

(c) The juvenile court of a demonstration county shall commence proceedings under subdivision (d) in the case of any other minor who has been taken from the physical custody of his parents or guardians under Section 361.5 and has remained out of their physical custody for 18 consecutive months, including for these purposes the time, if any, that the minor has remained out of their physical custody pursuant to a voluntary placement under Chapter 5.5 (commencing with Section 16550) of Part 4 of Division 9.

Physical custody of the minor by the parents or guardians for insubstantial periods of time during the 18-month period will not serve to interrupt the running of such period.

(d) For any minor that the juvenile court of a demonstration county finds to be a person described in either subdivision (b) or (c), the court shall order the appropriate department to investigate how the minor might be provided with a stable and permanent environment as require by subdivision (e). The department shall report its findings and make a recommendation to the court at a hearing that shall take place no more than 45 days from the date of the court's findings under subdivision (b) or (c), unless when the court makes its findings under subdivision (b) or (c), it finds that there is a substantial probability the minor will be returned to the physical custody of his parents or guardians within six months, in which case the hearing shall take place not more than six months from the date of the court's findings. The department and court shall give due consideration to the foster parents, if any, of the minor in considering adoption, guardianship or stable long-term foster care placement. The court shall notify the minor's parents or guardians and foster parents of its order under this subdivision, and the date of the hearing under subdivision (e). Such notice shall be sent by registered mail no less than 15 days before the date of such hearing and shall include a copy of the findings of the investigating department.

(e) At the hearing ordered under subdivision (d):

(1) If the court finds that the minor is adoptable, as determined by a licensed adoption agency, the court shall order the county counsel, or if there is no county counsel, the district attorney, to initiate an action to declare the minor permanently free from the custody and control of his parents or guardians pursuant to Section 232.1 of the Civil Code unless the court finds that:

(A) The parents or guardians have maintained a close relationship with the minor through regular visitation and contact and the minor would benefit from a continued relationship with them; or

(B) A minor 14 years of age or older objects to termination of parental rights; or

(C) The minor's foster parents are unable to adopt the minor because of exceptional circumstances, but are willing and capable of providing the minor with a stable and permanent environment and the removal of the minor from the physical custody of the foster parents would be seriously detrimental to the emotional well-being of the minor because the minor has substantial psychological ties to them.

(2) If the court finds that the minor is not adoptable or the exceptions described in paragraph (1) of subdivision (e) apply, and the court finds that one or more adults are available and eligible to become legal guardians for the minor, the court shall order the department to facilitate the guardianship proceedings. The county counsel or, if there is no county counsel, the district attorney, may render assistance in such proceedings to the department. The court shall not make such an order if it finds that the minor's foster parents are unable to become guardians for the minor because of exceptional

circumstances, but are willing and capable of providing the minor with a stable and permanent environment and the removal of the minor from the physical custody of his foster parents would be seriously detrimental to the emotional well-being of the minor because the minor has substantial psychological ties to them.

The proceeding for the appointment for a guardian for a minor under this section shall be in the juvenile court, notwithstanding Section 1405 of the Probate Code. For such minors, the juvenile court shall have the power to appoint a guardian pursuant to the standards and procedures otherwise specified by the Probate Code.

(3) If the court finds that the minor is not adoptable under paragraph (1) of subdivision (e) and that guardianship proceedings should not be initiated under paragraph (2) of subdivision (e), it shall order the department to facilitate the placement of the minor in an environment that can reasonably be expected to be stable and permanent. When the minor is in a foster home, and the foster parents are willing to provide and capable of providing a stable and permanent environment, the minor shall not be removed from this home if removal of the minor from the physical custody of his foster parents would be seriously detrimental to the emotional well-being of the minor because the minor has substantial psychological ties to them.

(f) When an adoption or guardianship of the minor has been perfected, the court shall terminate its jurisdiction over such minor. If some other long-term placement for the minor has been made, the court shall continue the hearing to a specific future date not more than one year after the date of the order of continued jurisdiction over the minor as a dependent child pursuant to Section 300 or 302 notwithstanding the 6-month review hearing required pursuant to Section 366.3.

SEC. 6. Section 16525 of the Welfare and Institutions Code is amended to read:

16525. As used in this chapter:

“Family reunification services” means services whose purposes are: (1) to prevent removal of children from their home, (2) to facilitate the return of minors who have been placed in foster care pursuant to Section 361.5 or voluntarily placed pursuant to Chapter 5.5 (commencing with Section 16550) of Part 4 of Division 9 of this code to the care and physical custody of their parents or guardians, and (3) to provide other services as set forth in Section 16527. Family reunification services shall include, but not be limited to, family therapy, psychiatric counseling, employment counseling, homemaker services, housekeeper services, day care services, emergency housing, divorce counseling, home management education, consumer education, health-related services, respite care on a 24-hour basis, emergency 24-hour shelter care, crisis intervention care on a 24-hour basis, information and referral services, counseling and other state protective services for children pursuant to Section 16502.5.

In utilizing funds allocated to the demonstration county pursuant to Section 16536, the county shall provide for adequate services in the following categories prior to utilizing funds to provide for any other services set forth in this section: homemaker services, housekeeper services, day care services, respite care on a 24-hour basis, emergency housing, emergency 24-hour shelter care, and crisis intervention care on a 24-hour basis.

SEC. 7. Section 16527 of the Welfare and Institutions Code is amended to read:

16527. Family reunification services shall be used by the social worker or probation officer to facilitate the return of minors who have been placed in foster care pursuant to Section 361.5 or voluntarily placed pursuant to Chapter 5.5 (commencing with Section 16550) of Part 4 of Division 9 to the care and physical custody of their parents or guardians and to stabilize the family after such return of the minor, provided that such services may be utilized by child protective service workers pursuant to Chapter 5 (commencing with Section 16500) of Part 4 of Division 9 to the extent permitted by each county board of supervisors. Services under this section may be provided to children in foster care and their foster parents when such services will facilitate the child's return to his own home or into a permanent placement. Services may also be provided to a child who is declared free of parental control pursuant to Section 232 of the Civil Code, prior to the order granting final adoption of such child when such services will facilitate the child's adoption.

The "family reunification services" authorized by this chapter shall not be construed to supplant or replace services authorized by any other provision of law or any services to minors or families provided by a county on the effective date of this chapter.

SEC. 8. Section 28 of Chapter 977 of the Statutes of 1976 is amended to read:

Sec. 28. The sum of two million dollars (\$2,000,000) is hereby appropriated from the General Fund to the State Department of Health for use during the 18-month period from January 1, 1977, through June 30, 1978, to be allocated as follows:

(a) One hundred seventy-five thousand dollars (\$175,000) for professional staff in the State Department of Health in order to effectively implement this act.

(b) Except as otherwise provided in Section 29.5, one million eight hundred twenty-five thousand dollars (\$1,825,000) to be used to reimburse the demonstration counties for all costs incurred in the implementation of this act including, but not limited to, the costs for family reunification services, child protective services, additional court hearings, and social worker and probation officer staff.

(c) All funds distributed to demonstration counties under this act during, and subsequent to, the fiscal year 1979-80 may be used for any purpose connected with implementation of the act with the provision that the fiscal year 1978-79 level of expenditures for direct

services shall be maintained and adjusted for increased need and cost-of-living increases.

It is the intent of the Legislature that this four-year demonstration program be funded for approximately two million dollars (\$2,000,000), consisting of state general funds and the county match required pursuant to Section 29.5 each fiscal year commencing fiscal year 1978-79, and the professional staff in the State Department of Health be funded for approximately one hundred twenty-five thousand dollars (\$125,000) for each such fiscal year.

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:

That this bill concerns a pilot project which ends in 1981, and any delay in the adoption of this bill would prevent it from having any impact on the project.

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## CHAPTER 1312

An act to add Section 11450.5 to, and to add Article 2.5 (commencing with Section 15060) to Chapter 9 of Part 3 of Division 9 of the Welfare and Institutions Code, relating to public social services, and making an appropriation therefor.

[Approved by Governor September 30, 1980. Filed with  
Secretary of State September 30, 1980 ]

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

SECTION 1. Section 11450.5 is added to the Welfare and Institutions Code, to read:

11450.5. For purposes of computing and paying aid grants pursuant to the Aid to Families With Dependent Children Program, the Director of the State Department of Social Services shall adopt regulations establishing any budgeting system consistent with federal law and regulations. Nothing in this section, or Sections 11004, 11257 and 11450, or any other provision of this code, shall be interpreted as prohibiting the establishment of, or otherwise restricting the operation of, any budgeting system adopted. In computing and paying AFDC aid grants, the term "month" shall mean "budget month" or "payment month" as these terms are used in federal law and regulations.

SEC. 2. Article 2.5 (commencing with Section 15060) is added to Chapter 9 of Part 3 of Division 9 of the Welfare and Institutions Code, to read:

**Article 2.5. Disability Evaluation Revolving Fund**

15060. The State Department of Social Services may establish a Disability Evaluation Revolving Fund in an amount not to exceed one million two hundred fifty thousand dollars (\$1,250,000) by withdrawing funds from the Social Welfare Federal Fund in the State Treasury. The purpose of the revolving fund is to reimburse medical service providers for medical information costs incurred by the department for disability determination functions performed pursuant to Titles II and XVI of the federal Social Security Act and Section 10553 of the Welfare and Institutions Code. The Disability Evaluation Revolving Fund shall be administered in accordance with Section 16403 of the Government Code.

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**CHAPTER 1313**

An act to amend Sections 800, 2529, 2529.5, 2554, 2608.5, 2630, 2683, 2981, 3515, and 4507 of, to amend, renumber and repeal Section 2146.8 of, to add Sections 923, 924, 2106, 2257, 2258, 2554.5, and 2980, and Article 11 (commencing with Section 2200) to Chapter 5 of Division 2, and Chapter 12 (commencing with Section 4925) to Division 2 of, to repeal and add Chapter 5 (commencing with Section 2000) of Division 2 of, and to repeal Sections 923, 924, 2980, and 4946.5, and Chapter 12 (commencing with Section 4925) of Division 2 of, the Business and Professions Code, to amend Section 994 of the Evidence Code, and to amend Sections 1366, 1373, 11453, 25661, 32128, and 32129 of the Health and Safety Code relating to the healing arts, and making an appropriation therefor.

[Approved by Governor September 30, 1980 Filed with  
Secretary of State September 30, 1980 ]

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

**SECTION 1.** Section 800 of the Business and Professions Code is amended to read:

800. (a) The Board of Medical Quality Assurance, the Board of Dental Examiners, the Board of Osteopathic Examiners, the Board of Chiropractic Examiners, the California Board of Registered Nursing, the Board of Vocational Nurse and Psychiatric Technician Examiners, the State Board of Optometry, the Board of Examiners in Veterinary Medicine, and the State Board of Pharmacy shall each separately create and maintain a central file of the names of all persons who hold a license, certificate or similar authority from such board. Each such central file shall be so created and maintained as to provide an individual historical record for each such person with respect to (1) any conviction of a crime in this or any other state which constitutes unprofessional conduct pursuant to the reporting

requirements of Section 803; (2) any judgment or settlement requiring him or his insurer to pay any amount of damages in excess of three thousand dollars (\$3,000) with respect to any claim that injury or death was proximately caused by such person's negligence, error or omission in practice or rendering of unauthorized professional services, pursuant to the reporting requirements of Section 801 or 802; (3) any public complaints for which provision is hereinafter made, pursuant to subdivision (b) of this section; (4) disciplinary information reported pursuant to Section 805.

(b) Each such board shall prescribe and promulgate forms on which members of the public and other licensees or certificate holders may file written complaints to the board alleging any act of misconduct in or connected with the performance of professional services by such person.

If a board, or division thereof, a committee, or a panel has failed to act upon a complaint within five years, or has found that the complaint is without merit, the central file shall be purged of information relating to the complaint.

(c) The contents of any central file which are not public records under any other provision of law shall be confidential except that it may be reviewed (1) by the licensee involved or his or her counsel or representative who may, but is not required to submit any additional exculpatory or explanatory statements or other information, which statements or other information must be included in the file, (2) by any district attorney or representative or investigator therefor who has been assigned to review the activities of a healing arts licentiate, (3) by any representative of the Attorney General's office or investigator thereof who has been assigned to review the activities of a healing arts licentiate, or (4) by any investigator of the department, or a healing arts board referred to in this section, who has been assigned to review the activities of a healing arts licentiate. Such licensee may, but is not required to submit any additional exculpatory or explanatory statements or other information which statements or other information must be included in the file.

SEC. 1.2. Section 923 of the Business and Professions Code is repealed.

SEC. 1.3. Section 923 is added to the Business and Professions Code, to read:

923. The board shall prepare and mail to every licensed physician at least once every two years a questionnaire containing such questions as are necessary to provide the information required by this division.

SEC. 1.4. Section 924 of the Business and Professions Code is repealed.

SEC. 1.5. Section 924 is added to the Business and Professions Code, to read:

924. Each licensed physician who receives a questionnaire under this division shall be required to substantially complete such

questionnaire and return it to the board. The board shall impose appropriate sanctions against any licensed physician who fails to comply with this section.

SEC. 1.6. Chapter 5 (commencing with Section 2000) of Division 2 of the Business and Professions Code is repealed.

SEC. 2. Chapter 5 (commencing with Section 2000) is added to Division 2 of the Business and Professions Code, to read:

## CHAPTER 5. MEDICINE

### Article 1. Administration

2000. This chapter shall be known and may be cited as the Medical Practice Act. Whenever a reference is made to the Medical Practice Act by the provisions of any statute, it is to be construed as referring to the provisions of this chapter.

2001. There is in the Department of Consumer Affairs a Board of Medical Quality Assurance which consists of 19 members who shall be appointed by the Governor, subject to confirmation by the Senate, seven of whom shall be public members.

2002. Unless otherwise expressly provided, the term "board" as used in this chapter means the Board of Medical Quality Assurance.

2003. The board shall consist of the following three divisions: a Division of Medical Quality, a Division of Licensing, and a Division of Allied Health Professions.

2004. The Division of Medical Quality shall have the responsibility for the following:

(a) The enforcement of the disciplinary and criminal provisions of the Medical Practice Act.

(b) The administration and hearing of disciplinary actions.

(c) Carrying out disciplinary actions appropriate to findings made by a medical quality review committee, the division, or an administrative law judge.

(d) Suspending, revoking, or otherwise limiting certificates after the conclusion of disciplinary actions.

(e) Reviewing the quality of medical practice carried out by physician and surgeon certificate holders under the jurisdiction of the board.

2005. The Division of Licensing shall have the responsibility for the following:

(a) Approving undergraduate and graduate medical education programs.

(b) Approving clinical clerkship and special programs and hospitals for such programs.

(c) Developing and administering the physician's and surgeon's licensure examination.

(d) Issuing licenses and certificates under the board's jurisdiction.

(e) Administering the board's continuing medical education program.

(f) Administering the student loan program.

2006. The Division of Allied Health Professions shall have the responsibility for the following:

(a) The activities of examining advisory committees and nonphysician licentiates under the jurisdiction of the board.

(b) The administration and hearing of disciplinary actions on nonphysician licentiates to the extent such actions are directly within the jurisdiction of the board.

(c) Carrying out disciplinary actions appropriate to findings made by examining committees within the board which have direct authority under law to administer such actions.

(d) Acting as liaison with other healing arts boards and agencies concerning the activities of the licentiates of such boards and agencies.

2007. Members of the board shall only be appointed from persons who have been citizens of this state for at least five years next preceding their appointment. Members of the board, except the public members, shall only be appointed from persons licensed as physicians and surgeons in this state. No person who in any manner owns any interest in any college, school, or institution engaged in medical instruction shall be appointed to the board. Four of the physician members of the board shall hold faculty appointments in a clinical department of an approved medical school in the state, but not more than four members of the board may hold full-time appointments to the faculties of such medical schools.

The public members shall not be licentiates of the board.

2008. The Division of Medical Quality shall consist of seven members of the board, three of whom shall be public members. The Division of Licensing shall consist of seven members, two of whom shall be public members. The Division of Allied Health Professions shall consist of five members, two of whom shall be public members.

Each member appointed to the board shall be assigned by the Governor to a specific division.

2009. All persons who, at the time this chapter goes into effect, hold office under any of the acts repealed by this chapter, which offices are continued by this chapter, continue to hold the same according to the former tenure thereof.

2010. Each member of the board shall be appointed for a term of four years.

Vacancies occurring on the board shall be filled by appointment of the Governor for the unexpired term.

2011. The Governor may remove any member of the board for neglect of duty required by this chapter, incompetency, or unprofessional conduct.

2012. Each division of the board shall elect a president, a vice president, and a secretary from its members. The board may also elect a president, vice president, and secretary.

2013. (a) Each division and the board shall hold at least one regular meeting annually in the County of Sacramento, the County

of Los Angeles, and the City and County of San Francisco or its environs. The board and each division may otherwise convene from time to time as deemed necessary by the board or a division.

(b) Five members of the Division of Medical Quality, five members of the Division of Licensing, and three members of the Division of Allied Health Professions shall constitute a quorum for the transaction of business at any division meeting. Ten members shall constitute a quorum for the transaction of business at any board meeting.

(c) It shall require the affirmative vote of a majority of those members present at a division or board meeting, such members constituting at least a quorum, to pass any motion, resolution, or measure, except that a decision by the Division of Medical Quality to revoke the certificate of a physician and surgeon shall require an affirmative vote of five members of that division.

2014. Notice of each meeting of the board or a division shall be given twice a week for two weeks next preceding the meeting in one daily paper published in the Cities of Sacramento, San Francisco, and Los Angeles.

2015. The president of the board and each division may call meetings of any duly appointed and created committee of the board or division at a specified time and place. It is unnecessary to advertise such committee meetings.

2016. Each member of the board and its committees shall receive per diem and travel expenses as provided in Section 103.

2017. The board and each division shall keep an official record of all their proceedings.

2018. Each division of the board may, within its jurisdiction, adopt, amend, or repeal, in accordance with the provisions of the Administrative Procedure Act, such regulations as may be necessary to enable it to carry into effect the provisions of law relating to the practice of medicine.

2019. The office of the board shall be in the City of Sacramento. Suboffices may be established in the Cities of Los Angeles, San Diego, and San Francisco or the environs of such cities. Legal proceedings against the board shall be instituted in any one of these four cities. The board may also establish other suboffices as it may deem necessary and such records as may be necessary may be transferred temporarily to any suboffices.

2020. The board may employ an executive director exempt from the provisions of the Civil Service Act and may also employ investigators, legal counsel, medical consultants, and other such assistance as it may deem necessary to carry into effect the provisions of this chapter. The board may fix the compensation to be paid for such services subject to the provisions of applicable state laws and regulations and may incur such other expenses as it may deem necessary. Investigators employed by the board shall be provided special training in investigating medical practice activities.

The Attorney General shall act as legal counsel for the board for

any judicial and administrative proceedings and his or her services shall be a charge against it.

2021. (a) If the board publishes a directory pursuant to Section 112, it may require persons licensed pursuant to this chapter to furnish such information as it may deem necessary to enable it to compile the directory.

(b) Each such licentiate shall report immediately to the board each and every change of address, giving both the old and new address.

2022. The directory shall be prima facie evidence of the authority of the persons named therein to practice under this act, unless such authority has been revoked, suspended, or otherwise limited pursuant to this chapter subsequent to the publication of the directory.

## Article 2. General Provisions

2030. The provisions of this chapter insofar as they are substantially the same as provisions relating to the same subject matter of previous medical practice acts shall be construed as restatements and continuations thereof, and not as new enactments.

2031. The rights given by any certificate issued under any preceding medical practice act are not affected by the enactment of this chapter, nor by the repeal of any law upon which such rights are based, but such rights shall hereafter be exercised according to the provisions of this chapter.

2032. "Person" means a natural person when a right, privilege, or power is conferred by this chapter upon a person.

2033. "Professional" relates to the art and science of medicine and surgery and to such other arts and sciences as may be included within the field of medicine and surgery.

2034. "Medical licensing authority" refers to any officer, board, commission, or department of another state upon whose certificate a reciprocity certificate may be issued.

2035. Whenever any requirement is provided for any certificate, it shall be satisfied in a manner satisfactory to the appropriate division of the board charged with the responsibility of administering such requirement.

2036. Whenever a course of instruction is required for any certificate, it shall be satisfied by a resident course of medical instruction. Whenever a resident course of instruction is mentioned in this chapter, it shall be interpreted to mean classroom, laboratory, practical, and clinical instruction, received and given the person physically present, wherever prescribed as a part of his or her instruction and for the period prescribed for such instruction.

2037. Whenever any requirement is provided for any certificate relating to a medical school or hospital, or any reference is made to a medical school or hospital, the medical school and hospital shall be ones approved by the Division of Licensing.

2038. Whenever the words "diagnose" or "diagnosis" are used in this chapter, they include any undertaking by any method, device, or procedure whatsoever, and whether gratuitous or not, to ascertain or establish whether a person is suffering from any physical or mental disorder. Such terms shall also include the taking of a person's blood pressure and the use of mechanical devices or machines for the purpose of making a diagnosis and representing to such person any conclusion regarding his or her physical or mental condition. Machines or mechanical devices for measuring or ascertaining height or weight are excluded from this section.

2039. All certificates issued by the board shall state the extent and character of the practice which is permitted.

2040. The terms "license" and "certificate" as used in this chapter are deemed to be synonymous.

2041. The term "licensee" as used in this chapter means the holder of a physician's and surgeon's certificate or podiatrist's certificate, as the case may be, who is engaged in the professional practice authorized by such certificate under the jurisdiction of the appropriate division or examining committee.

### Article 3. License Required and Exemptions

2050. The Division of Licensing shall issue one form of certificate to all physicians and surgeons licensed by the board which shall be designated as a "physician's and surgeon's certificate."

2051. The physician's and surgeon's certificate authorizes the holder to use drugs or devices in or upon human beings and to sever or penetrate the tissues of human beings and to use any and all other methods in the treatment of diseases, injuries, deformities, and other physical and mental conditions.

2052. Any person who practices or attempts to practice, or who advertises or holds himself or herself out as practicing, any system or mode of treating the sick or afflicted in this state, or who diagnoses, treats, operates for, or prescribes for any ailment, blemish, deformity, disease, disfigurement, disorder, injury, or other physical or mental condition of any person, without having at the time of so doing a valid, unrevoked, or unsuspended certificate as provided in this chapter, or without being authorized to perform such act pursuant to a certificate obtained in accordance with some other provision of law, is guilty of a misdemeanor.

2053. Any person who willfully, under circumstances or conditions which cause or create risk of great bodily harm, serious physical or mental illness, or death, practices or attempts to practice, or advertises or holds himself or herself out as practicing, any system or mode of treating the sick or afflicted in this state, or diagnoses, treats, operates for, or prescribes for any ailment, blemish, deformity, disease, disfigurement, disorder, injury, or other physical or mental condition of any person, without having at the time of so doing a valid, unrevoked, or suspended certificate as provided in this

chapter, or without being authorized to perform such act pursuant to a certificate obtained in accordance with some other provision of law, is punishable by imprisonment in the county jail for not exceeding one year or in the state prison.

The remedy provided in this section shall not preclude any other remedy provided by law.

2054. Any person who uses in any sign, business card, or letterhead, or, in an advertisement, the words "doctor" or "physician," the letters or prefix "Dr.," the initials "M.D.," or any other terms or letters indicating or implying that he or she is a physician and surgeon, physician, surgeon, or practitioner under the terms of this or any other law, or that he or she is entitled to practice hereunder, or who represents or holds himself or herself out as a physician and surgeon, physician, surgeon, or practitioner under the terms of this or any other law, without having at the time of so doing a valid, unrevoked, and unsuspended certificate as a physician and surgeon under this chapter, is guilty of a misdemeanor.

2055. Notwithstanding any other provision of law, a person issued a physician's and surgeon's certificate by the Board of Medical Quality Assurance pursuant to the provisions of this chapter shall be entitled to use of the initials "M.D."

2058. Nothing in this chapter prohibits service in the case of emergency, or the domestic administration of family remedies.

2059. This chapter does not apply to any commissioned medical officer in United States armed services' hospitals or other federal reservation or the public health service, in the discharge of his or her official duties, but such officers shall have all privileges under this chapter when engaged in the discharge of such official duties.

2060. Nothing in this chapter applies to any practitioner from outside this state, when in actual consultation with a licensed practitioner of this state, or when an invited guest of the California Medical Association or the California Podiatry Association, or one of their component county societies, or of an approved medical or podiatric medical school or college for the sole purpose of engaging in professional education through lectures, clinics, or demonstrations, if he or she is, at the time of the consultation, lecture, or demonstration a licensed practitioner in the state or country in which he or she resides. Such practitioner shall not open an office or appoint a place to meet patients or receive calls from patients within the limits of this state.

2061. Nothing in this chapter shall be construed as limiting the practice of other persons licensed, certified, or registered under any other provision of law relating to the healing arts when such person is engaged in his or her authorized and licensed practice.

2062. Testing and guidance programs in schools, colleges, and universities and physical fitness tests given by public and private agencies in connection with employment or issuance or renewal of licenses or permits do not constitute the practice of medicine within the meaning or intent of this chapter.

2063. Nothing in this chapter shall be construed so as to discriminate against any particular school of medicine or surgery, school or college of podiatric medicine, or any other treatment, nor shall it regulate, prohibit, or apply to any kind of treatment by prayer, nor interfere in any way with the practice of religion.

2064. Nothing in this chapter shall be construed to prevent a regularly matriculated student undertaking a course of professional instruction in an approved medical school, or to prevent a foreign medical student who is enrolled in an approved medical school or clinical training program in this state, or to students enrolled in a program of supervised clinical training under the direction of an approved medical school pursuant to Section 2104, from engaging in the practice of medicine whenever and wherever prescribed as a part of his or her course of study.

2065. Unless otherwise provided by law, no postgraduate trainee, intern, resident, postdoctoral fellow, or instructor may engage in the practice of medicine, or receive compensation therefor, or offer to engage in the practice of medicine unless he or she holds a valid, unrevoked, and unsuspended physician's and surgeon's certificate issued by the board. However, a graduate of an approved medical school, who is registered with the Division of Licensing and who is enrolled in a postgraduate training program approved by the division, may engage in the practice of medicine whenever and wherever required as a part of such program under the following conditions:

(a) A graduate enrolled in an approved first-year postgraduate training program may so engage in the practice of medicine for a period not to exceed one year whenever and wherever required as a part of the training program, and may receive compensation for such practice.

(b) A graduate who has completed the first year of postgraduate training may, in an approved residency or fellowship, engage in the practice of medicine whenever and wherever required as part of such residency or fellowship, and may receive compensation for such practice. Such a resident or fellow shall qualify for, take, and pass the next succeeding written examination for licensure given by the division, or shall qualify for and receive a physician's and surgeon's certificate by one of the other methods specified in this chapter. If such a resident or fellow shall fail to receive a license to practice medicine under this chapter within one year from the commencement of the residency or fellowship, all privileges and exemptions under this section shall automatically cease.

2068. This chapter shall not be construed to prohibit any person from providing nutritional advice or giving advice concerning proper nutrition. However, this section confers no authority to practice medicine or surgery or to undertake the prevention, treatment, or cure of disease, pain, injury, deformity, or physical or mental conditions or to state that any product might cure any disease, disorder, or condition in violation of any provision of law.

For purposes of this section the terms "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.

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 physical or mental condition and specifically does not authorize any person other than one who is a licensed health practitioner to state that any product might cure any disease, disorder, or condition."

The notice required by this section 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 the lettering of the word "NOTICE" shall not be smaller than 1 inch in length.

2069. (a) Notwithstanding any other provision of law, a medical assistant may administer medication only by intradermal, subcutaneous, or intramuscular injections and perform skin tests upon the specific authorization and supervision of a licensed physician and surgeon or a licensed podiatrist.

(b) As used in this section and Section 2070, the following definitions shall apply:

(1) "Medical assistant" means a person who may be unlicensed, who performs basic administrative, clerical, and technical supportive services in compliance with this section and Section 2070 for a licensed physician and surgeon or a licensed podiatrist, or group thereof, for a medical or podiatry corporation, or for a health care services plan, who is at least 18 years of age, and who has had at least the minimum amount of hours of appropriate training pursuant to standards established by the Division of Allied Health Professions. The medical assistant shall be issued a certificate by the training institution or instructor indicating satisfactory completion of the required training. A copy of such certificate shall be retained as a record by each employer of the medical assistant.

(2) "Specific authorization" means a specific written order prepared by the supervising physician and surgeon or the supervising podiatrist authorizing the procedures to be performed on a patient, which shall be placed in the patient's medical record; or a standing order prepared by the supervising physician and surgeon or the supervising podiatrist authorizing the procedures to

be performed, the duration of which shall be consistent with accepted medical practice. A notation of the standing order shall be placed on the patient's medical record.

(3) "Supervision" means the supervision of procedures authorized by this section by a licensed physician and surgeon or by a licensed podiatrist, within the scope of his or her practice, who shall be physically present in the treatment facility during the performance of such procedures.

(c) Nothing in this section shall be construed as authorizing the licensure of medical assistants. Nothing in this section shall be construed as authorizing the administration of local anesthetic agents by a medical assistant.

2070. Notwithstanding any other provision of law, a medical assistant may perform venipuncture or skin puncture for the purposes of withdrawing blood upon specific authorization and under the supervision of a licensed physician and surgeon or a licensed podiatrist, if prior thereto the medical assistant has had at least the minimum amount of hours of appropriate training pursuant to standards established by the Division of Allied Health Professions. The medical assistant shall be issued a certificate by the training institution or instructor indicating satisfactory completion of the training required. A copy of the certificate shall be retained as a record by each employer of the medical assistant.

2072. Notwithstanding any other provision of law and subject to the provisions of the State Civil Service Act, any person who is licensed to practice medicine in any other state, who meets the requirements for application and examination set forth in this chapter, and who complies with the provisions of Section 2065 with respect to registration with the Division of Licensing, may be appointed to the medical staff within a state institution and, under the supervision of a physician and surgeon licensed in this state, may engage in the practice of medicine on persons under the jurisdiction of any such state institution. Qualified physicians and surgeons licensed in this state shall not be recruited pursuant to this section.

No person appointed pursuant to this section shall be employed in any state institution for a period in excess of two years from the date such person was first employed and such appointment shall not be extended beyond such two-year period. At the end of such two-year period such physician shall have been issued a physician's and surgeon's certificate by the board in order to continue such employment. Until such physician has obtained a physician's and surgeon's certificate from the board he or she shall not engage in the practice of medicine in this state except to the extent expressly permitted herein.

2073. Notwithstanding any other provision of law, any person who is licensed to practice medicine in any other state who meets the requirements for application and examination set forth in this chapter, and who complies with the provisions of Section 2065 with respect to registration with the Division of Licensing, may be

employed on the resident medical staff within a county general hospital and, under the supervision of a physician and surgeon licensed in this state, may engage in the practice of medicine on persons within such county institution. Employment pursuant to this section is authorized only when an adequate number of qualified resident physicians cannot be recruited from intern staffs in this state.

No person appointed pursuant to this section shall be employed in any county general hospital for a period in excess of two years from the date such person was first employed and such employment shall not be extended beyond such two-year period. At the end of such two-year period such physician shall have been issued a physician's and surgeon's certificate by the board in order to continue as a member of such resident staff. Until such physician has obtained a physician's and surgeon's certificate from the board he or she shall not engage in the practice of medicine in this state except to the extent expressly permitted herein.

2074. Nothing in this chapter shall prohibit the employment of a licensed physician and surgeon practicing in the specialty of ophthalmology by an optometrist licensed under the provisions of Chapter 7 (commencing with Section 3000) or by an optometric corporation certificated under that chapter.

2075. The performance of acupuncture by an unlicensed person or certified acupuncturist, alone or in conjunction with other forms of traditional Oriental medicine, when carried on in a program affiliated with and under the jurisdiction of an approved medical school, for the primary purpose of scientific investigation of acupuncture shall not be in violation of this chapter, but such procedures shall be carried on only under the supervision of a licensed physician and surgeon.

Any medical school conducting research into acupuncture under this section shall report to the Legislature annually on the fifth legislative day of the regular session of the Legislature concerning the results of such research, the suitability of acupuncture as a therapeutic technique, and performance standards for persons who perform acupuncture.

#### Article 4. Requirements for Licensure

2080. (a) Except as otherwise provided, the provisions of this article applicable to applications generally shall apply to all certificates issued.

(b) Every applicant for a physician's and surgeon's certificate shall comply with the requirements of this article unless other specific requirements of this chapter are applicable to a particular class of applicant.

2081. Each application shall be made upon a form provided by the Division of Licensing.

2082. Each application shall include the following:

(a) A diploma issued by an approved medical school. The requirements of the school shall have been at the time of granting the diploma in no degree less than those required under this chapter or by any preceding medical practice act at the time that the diploma was granted. In lieu of a diploma, the applicant may submit evidence satisfactory to the Division of Licensing of having possessed the same.

(b) An official transcript or other official evidence satisfactory to the division showing each approved medical school in which a resident course of professional instruction was pursued covering the minimum requirements for certification as a physician and surgeon, and that a diploma and degree were granted by the school.

(c) Such other information concerning the professional instruction and preliminary education of the applicant as the division may require.

(d) An affidavit showing to the satisfaction of the division that the applicant is the person named in each diploma and transcript that he or she submits, that he or she is the lawful holder thereof, and that such diploma or transcript was procured in the regular course of professional instruction and examination without fraud or misrepresentation.

2083. Each application for a certificate shall be accompanied by the fee required by this chapter and shall be filed with the Division of Licensing. An application based upon a diplomate certificate issued by the National Board of Medical Examiners need not comply with subdivisions (a), (b), and (c) of Section 2082.

2084. The Division of Licensing shall approve every school which complies with the requirements of this chapter for resident courses of professional instruction and shall admit every applicant to the examination who complies with the requirements provided for certification as a physician and surgeon. Nothing in this chapter prohibits the division from considering the quality of the resident courses of professional instruction required for such certification.

2086. The Division of Licensing may utilize medical consultants and investigators employed by the board pursuant to Section 2020 to evaluate the curricula of medical schools. A medical consultant or investigator shall meet such reasonable standards of experience and education, to be determined by the division, as will enable him or her to competently perform such duties of evaluation.

2087. If any medical school is not approved by the Division of Licensing or any applicant for examination is rejected by it, then the school or the applicant may commence an action in the superior court as provided in Section 2019 against the division to compel it to approve the school or to admit the applicant to examination or for any other appropriate relief. If the applicant is denied admittance to the examination or a certificate on the grounds of unprofessional conduct, the provisions of Article 12 (commencing with Section 2220) shall apply. In such an action the court shall proceed under Section 1094.5 of the Code of Civil Procedure, except that the court may not exercise an independent judgment on the evidence. The

action shall be speedily determined by the court and shall take precedence over all matters pending therein except criminal cases, applications for injunction, or other matters to which special precedence may be given by law.

2088. Each applicant shall present an official transcript or other official evidence to the Division of Licensing that he or she has completed two years of preprofessional postsecondary education, or its equivalent, before completing the resident course of professional instruction.

The two-year preprofessional postsecondary education shall include the subjects of physics, chemistry, and biology. In the event that one of the above subjects was not completed as a part of that postsecondary education, an applicant shall complete a course of instruction in such subjects in an accredited postsecondary educational institution prior to taking the written examination for licensure.

2089. (a) Each applicant for a physician's and surgeon's certificate shall show by official transcript or other official evidence satisfactory to the Division of Licensing that he or she has successfully completed a medical curriculum extending over a period of at least four academic years in a medical school or schools located in the United States or Canada approved by the division. The total number of hours of all courses shall consist of a minimum of 4,000 hours. At least 80 percent of actual attendance shall be required.

(b) The curriculum for all applicants shall provide for adequate instruction in the following:

Anatomy, including embryology, histology, and neuroanatomy.

Anesthesia.

Biochemistry.

Child abuse detection and treatment.

Dermatology.

Geriatric medicine.

Human sexuality.

Medicine, including pediatrics.

Neurology.

Obstetrics and gynecology.

Ophthalmology.

Otolaryngology.

Pathology, bacteriology, and immunology.

Pharmacology.

Physical medicine.

Physiology.

Preventive medicine, including nutrition.

Psychiatry.

Radiology, including radiation safety.

Surgery, including orthopedic surgery.

Therapeutics.

Tropical medicine.

Urology.

2090. "Human sexuality" as used in Sections 2089 and 2191 means the study of a human being as a sexual being and how he or she functions with respect thereto.

2091. The requirement that instruction in child abuse detection and treatment be provided shall apply only to applicants who matriculate on or after September 1, 1979.

2092. Notwithstanding Section 2089, any applicant who graduated from a medical school located outside California need not show that he or she has received adequate instruction in nutrition in order to be eligible for licensure.

2096. Before a physician's and surgeon's license may be issued, each applicant shall show by evidence satisfactory to the Division of Licensing that he or she has satisfactorily completed one year of postgraduate training in an approved hospital.

2099. Notwithstanding any other provision of this chapter, the Division of Licensing may delegate to any member of the division its authority to approve the admission of candidates to examinations and to approve the issuance of physician's and surgeon's certificates to applicants who have met the specific requirements therefor. The division may further delegate to the executive director or other official of the board the authority to approve the admission of candidates to examinations and to approve the issuance of physician's and surgeon's certificates to applicants who have met the specific requirements therefor in routine cases to candidates and applicants who clearly meet the requirements of this chapter.

#### Article 5. Foreign Medical Graduates

2100. The provisions of this article shall apply to all applications of graduates of medical schools located outside the United States or Canada. Such applicants shall otherwise comply with the provisions of this chapter, except where such provisions are in conflict with or inconsistent with the provisions of this article.

2101. Any applicant who is not a citizen of the United States or otherwise does not qualify for licensure as a physician and surgeon under Section 2102 whose professional instruction was acquired in a country other than the United States or Canada shall provide evidence satisfactory to the Division of Licensing of compliance with the following requirements in order to be issued a physician's and surgeon's certificate:

(a) Completion in a medical school or schools a resident course of professional instruction equivalent to that required by Section 2089 and issuance to such applicant of a document acceptable to the division which shows final and successful completion of the course.

(b) Admission or licensure to practice medicine and surgery in a country or other state of the United States wherein licensure requirements are satisfactory to the division.

(c) Completion of one of the following types of hospital service:

(1) Two years of clinical service satisfactory to the division in an approved hospital located in another state or Canada. However, if the applicant completed the premedical education required in Section 2088 in an educational institution located in the United States or Canada, only one year of such service shall be required.

(2) One year of clinical service satisfactory to the division in an approved hospital located in this state.

(3) One year of formal postgraduate training if engaged in the practice of medicine in an approved hospital or hospitals in the United States or Canada for at least four years for postgraduate training, one of which years shall have been a formal postgraduate training position.

(4) The applicant is a diplomate of an American specialty board approved by the American Medical Association, except that no more than one year of the specialty training may be acquired outside the United States or Canada.

Prior to commencing any clinical service in a hospital in this state, an applicant shall first have passed the written examination required in subdivision (d).

(d) Pass the written examination as provided under Article 9 (commencing with Section 2170) and an oral and comprehensive clinical examination. If the written examination provided for in Article 9 is divided into parts, the applicant may elect to take any part or combination of parts at one examination and complete the examination on the following examination date.

Nothing in this section shall prohibit the division from disapproving any foreign medical school or from denying an application if, in the opinion of the division, the professional instruction provided by the medical school or the instruction received by the applicant is not equivalent to that required in Article 4 (commencing with Section 2080).

2102. Any applicant who either (1) is a United States citizen or (2) has filed a declaration of intention to become a United States citizen, a petition for naturalization, or a comparable document, whose professional instruction was acquired in a country other than the United States or Canada shall provide evidence satisfactory to the Division of Licensing of compliance with the following requirements in order to be issued a physician's and surgeon's certificate:

(a) Completion in a medical school or schools of a resident course of professional instruction equivalent to that required by Section 2089 and issuance to such applicant of a document acceptable to the division which shows final and successful completion of the course.

(b) Completion of one of the following types of hospital service:

(1) Two years of clinical service satisfactory to the division in an approved hospital located in another state or Canada. However, if the applicant completed the premedical education required in Section 2088 in an educational institution located in the United States or Canada, only one year of such service shall be required.

(2) One year of clinical service satisfactory to the division in an

approved hospital located in this state.

(3) One year of formal postgraduate training if engaged in the practice of medicine in an approved hospital or hospitals in the United States or Canada for at least four years for postgraduate training, one of which years shall have been a formal postgraduate training position.

(4) The applicant is a diplomate of an American specialty board approved by the American Medical Association, except that no more than one year of the specialty training may be acquired outside the United States or Canada.

Prior to commencing any clinical service in a hospital in this state, an applicant shall first have passed the written examination required in subdivision (c).

(c) Pass the written examination as provided under Article 9 (commencing with Section 2170) and an oral and comprehensive clinical examination. If the written examination provided for in Article 9 is divided into parts, the applicants may elect to take any part or combination of parts at one examination and complete the examination on the following examination date.

Nothing in this section shall prohibit the division from disapproving any foreign medical school or from denying an application if, in the opinion of the division, the professional instruction provided by the medical school or the instruction received by the applicant is not equivalent to that required in Article 4 (commencing with Section 2080).

2103. An applicant who is a citizen of the United States shall be eligible for a physician's and surgeon's certificate if he or she has completed the following requirements:

(a) Official transcripts or other official evidence satisfactory to the Division of Licensing of compliance with Section 2088.

(b) Official evidence satisfactory to the division of completion of a resident course or professional instruction equivalent to that required in Section 2089 in a medical school located outside the United States or Canada.

(c) Official evidence satisfactory to the division of completion of all formal requirements of the medical school for graduation, except the applicant shall not be required to have completed an internship or social service or be admitted or licensed to practice medicine in the country in which the professional instruction was completed.

(d) Attained a score satisfactory to an approved medical school on a qualifying examination acceptable to the division.

(e) Successful completion of one academic year of supervised clinical training in a program approved by the division pursuant to Section 2104. The division shall also recognize as compliance with this subdivision the successful completion of a one-year supervised clinical medical internship operated by a medical school pursuant to Chapter 85 of the Statutes of 1972 and as amended by Chapter 888 of the Statutes of 1973 as the equivalent of the year of supervised clinical training required by this section.

(f) Satisfactory completion of one year of clinical service in a hospital in the United States or Canada which the division approves for first-year postgraduate training.

(g) Passed the written examination required for certification as a physician and surgeon in this chapter.

2104. The Division of Licensing shall approve programs of supervised clinical training in hospitals for the purpose of providing basic clinical training to students who are graduates of foreign medical schools or have completed all the formal requirements for graduation except for internship or social service and who intend to apply for licensure as a physician and surgeon pursuant to Section 2103. Such programs shall be under the direction of approved medical schools.

2105. No hospital licensed by this state, or operated by the state or a political subdivision thereof, or which receives state financial assistance, directly or indirectly, shall require an individual who at the time of his or her enrollment in a medical school outside the United States is a citizen of the United States, to satisfy any requirements other than those contained in subdivisions (a), (b), (c), (d), and (e) of Section 2103 prior to commencing the postgraduate training required by subdivision (f) which are not required for graduates of approved medical schools located in the United States or Canada.

2106. (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 Sections 2103 and 2104 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 enrolled in an approved program of supervised clinical training approved pursuant to Section 2104 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, 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 this state in an approved program of supervised clinical training established pursuant to Section 2104. 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

subdivision (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 the University of California medical schools and to students enrolled in clinical training programs at a University of California medical school and 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.

(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.

2111. (a) Physicians who are not citizens but are legally admitted to the United States and who seek postgraduate study in an approved medical school either as a fellow, an instructor, or an exchange professor may, after receipt of an appointment from the dean of the medical school and application to and approval by the Division of Licensing, be permitted to participate in the professional activities of the department in the medical school to which they are appointed. Such a physician shall be under the direction of the head of the department to which he or she is appointed. Such permission may only be granted for a maximum of five years, and shall be renewed annually. Renewal shall be granted subject to the discretion of the division.

(b) Except to the extent authorized by this section, no such visiting physician may engage in the practice of medicine or receive compensation therefor. The time spent under appointment in a medical school pursuant to this section may not be used to meet the requirements for licensure under Section 2101 or 2102.

(c) Nothing in this section shall preclude any United States citizen who has received his or her medical degree from a medical school located in a foreign country from participating in any program established pursuant to this section.

2112. (a) Physicians who are not citizens but are legally admitted to the United States and who seek postgraduate study, may, after application to and approval by the Division of Licensing, be

permitted to participate in a fellowship program in a specialty or subspecialty field, providing the fellowship program is given in a hospital in this state which is approved by the Joint Committee on Accreditation of Hospitals and providing the service is satisfactory to the division. Such physicians shall at all times be under the direction and supervision of a licensed, board-certified physician and surgeon who is recognized as a clearly outstanding specialist in the field in which the foreign fellow is to be trained. The supervisor, as part of the application process, shall submit his or her curriculum vitae and a protocol of the fellowship program to be completed by the foreign fellow. Approval of the program and supervisor is for a period of one year, but may be renewed annually upon application to and approval by the division. The approval may not be renewed more than four times. The division may determine a fee, based on the cost of operating this program, which shall be paid by the applicant at the time the application is filed.

(b) Except to the extent authorized by this section, no such visiting physician may engage in the practice of medicine or receive compensation therefor. The time spent under appointment in a medical school pursuant to this section may not be used to meet the requirements for licensure under Section 2101 or 2102.

(c) Nothing in this section shall preclude any United States citizen who has received his or her medical degree from a medical school located in a foreign country from participating in any program established pursuant to this section.

2113. (a) Any person who does not immediately qualify for a physician's and surgeon's certificate under any of the provisions of this chapter and who is offered by the dean of an approved medical school in this state a full-time faculty position may, after application to and approval by the Division of Licensing, be granted a certificate of registration to engage in the practice of medicine only to the extent that such practice is incident to and a necessary part of his or her duties as approved by the division in connection with such faculty position.

(b) To qualify for such a certificate an applicant shall meet all the following requirements:

(1) Furnish documentary evidence satisfactory to the division that the applicant is a United States citizen or is legally admitted to the United States.

(2) If the applicant is a graduate of a medical school other than in the United States or Canada, furnish documentary evidence satisfactory to the division that he or she has been licensed to practice medicine and surgery for not less than four years in another state or country whose requirements for licensure are satisfactory to the division, or has been engaged in the practice of medicine in the United States for at least four years in approved hospitals, or has completed a combination of such licensure and training.

If the applicant is a graduate of an approved medical school in the United States or Canada, furnish documentary evidence that he or

she has completed a resident course of professional instruction as required in Section 2089.

(3) Take and pass an oral and comprehensive clinical examination if required by the division.

(4) The head of the department in which the applicant is to be appointed shall certify in writing to the division that the applicant will be under his or her direction and will not be permitted to practice medicine unless incident to and a necessary part of the applicant's duties as approved by the division in subdivision (a).

(c) A certificate of registration is valid for one year after its issuance. During this period the registrant shall take the written examination required for issuance of a physician's and surgeon's certificate. If the registrant does not pass the written examination, the certificate of registration shall nevertheless be effective for the one-year period issued and if the effective period of the certificate will lapse before the examination may be retaken, the certificate of registration may be renewed, subject to the discretion of the division, for a period not to exceed one year.

(d) If the registrant is a graduate of a medical school other than in the United States or Canada, he or she shall meet the requirements of Section 2101 in order to obtain a physician's and surgeon's certificate. Notwithstanding any other provision of law, the division may accept practice in an appointment pursuant to this section as qualifying time to meet the hospital service requirements in Section 2101.

(e) Except to the extent authorized by this section, the registrant shall not engage in the practice of medicine or receive compensation therefor, unless he or she is issued a physician's and surgeon's certificate.

2114. (a) A physician who is a graduate of a medical school other than in the United States or Canada and who is a clearly outstanding physician in fields of medicine or surgery and who has been offered by the dean of a medical school in this state an important full-time academic appointment for which there is a great need to fill may, after application to and approval by the Division of Licensing, be granted a certificate of registration to engage in the practice of medicine only to the extent that such practice is incidental to and is a necessary part of his or her duties as approved by the division in connection with the academic position in the medical school. Such application shall include a review of the credentials of the physician by the division.

(b) The division in its discretion may require the applicant to take and pass an oral and comprehensive clinical or written examination.

(c) The certificate of registration is valid for a period of not more than five years and shall be renewable at the discretion of the division.

(d) A physician who receives and has held a valid certificate of registration under this section for at least two years may apply to the division for a physician's and surgeon's certificate. In applying for a

physician's and surgeon's certificate, the physician shall take and pass an oral and comprehensive clinical examination. Notwithstanding any other provision of law, the division shall accept practice in an appointment pursuant to this section as qualifying time to meet the hospital service requirements in Sections 2101 and 2102.

(e) Except to the extent authorized by this section, the registrant shall not engage in the practice of medicine or receive compensation therefor, unless he or she is issued a physician's and surgeon's certificate.

2119. A person applying for licensure pursuant to Sections 2101 and 2102 may commence the hospital clinical service required for licensure if he or she has completed the written examination required in those sections, but has not yet been notified of the score received on such examination. In the event the applicant is notified that he or she has not passed the written examination, such person shall not be eligible to continue with the hospital clinical service until he or she has attained a score on the examination satisfactory to the division.

2120. Notwithstanding any other provision of law, any applicant whose medical education is satisfactory to the Division of Licensing who has been licensed and who has actively practiced medicine for a period of not less than 14 years in another state or foreign country whose licensure requirements are satisfactory to the division, shall be required to pass only those portions of the written examination provided for in Article 9 (commencing with Section 2170) relating to clinical science and clinical competence and shall be exempt from other portions of the written examination. Any applicant so exempt shall, however, be required to pass an oral and comprehensive clinical examination administered by the division.

#### Article 7. Reciprocity and National Board Diplomate Applications

2135. (a) The Division of Licensing shall issue a physician's and surgeon's certificate on reciprocity if an applicant holds a license to engage in the unlimited practice of medicine issued by another state.

(b) Subject to the provisions of Sections 2142 and 2147, no examination for a reciprocity certificate shall be required.

(c) This section shall apply only to persons who have been granted the degree of doctor of medicine after the completion of a resident course of professional instruction required in this chapter in an approved medical school.

2136. The Division of Licensing shall issue a physician's and surgeon's certificate on reciprocity to an applicant providing he or she meets the following requirements:

(a) The applicant is licensed as a physician and surgeon in another state whose written examination is recognized by the division to be equivalent in content to that administered in California.

(b) The applicant has practiced medicine in such state for at least

four years.

(c) The division determines that no disciplinary action has been taken against the applicant by any medical licensing authority and that the applicant has not been the subject of adverse judgments or settlements resulting from the practice of medicine which the division determines constitutes evidence of a pattern of negligence or incompetence.

(d) The applicant takes and passes an oral and comprehensive clinical examination.

The provisions of this article which are not inconsistent with or in conflict with this section shall otherwise apply to applicants under this section.

2140. The applicant's professional instruction and the requirements of the medical licensing authority which issued the applicant's existing license to practice medicine shall not have been at the time of graduation and issuance of such license in any degree or particular less than those which were required for the issuance of a similar certificate to engage in the practice of medicine in this state at the same time.

2141. An applicant under this article shall file a verified application on a form furnished by the Division of Licensing containing such information concerning his or her past practice and experience and other such information as may be required by the division. The application shall be accompanied by the reciprocity application fee required in Section 2435.

2142. In addition to other information required by the Division of Licensing, each applicant for a reciprocity certificate shall comply with the following:

(a) Each license to practice medicine issued by a medical licensing authority to the applicant shall be listed with the date each certificate or license was issued and a description of each such certificate or license. The division in its discretion may require the applicant to file an indicia of such certification or licensure. If a certificate or license has been lost, a copy may be filed together with proof satisfactory to the division that the copy is a correct one and that the certificate was issued to the applicant without fraud or misrepresentation.

(b) Each medical school or college at which the applicant undertook his or her resident course of professional instruction and all postsecondary educational institutions from which the applicant was graduated shall be listed including the period of study at each.

(c) The applicant shall show that a diploma or other evidence of final, successful, and entire completion of professional instruction granted by the approved medical school attended was a condition precedent to his or her admission to the written examination for licensure upon which the application in this state is based.

(d) The applicant shall not have failed a written or oral examination administered by the division for a physician's and surgeon's certificate under this chapter or any preceding medical

practice act.

(e) The applicant shall not have committed any acts or crimes constituting grounds for denial of a certificate under Division 1.5 (commencing with Section 475) or Article 12 (commencing with Section 2220).

2143. An applicant for a reciprocity certificate need not have completed the first year of postgraduate training required in Section 2096 prior to the issuance of a license in another state, if the applicant complies with the requirements of Section 2096 before application is made to the Division of Licensing for a reciprocity certificate.

2144. The Division of Licensing may make an independent investigation of the educational qualifications and the ability and standing of the applicant.

If, after this investigation and any other or further examination or investigation which the division may see fit to make on its own part, it is found that the requirements of the medical licensing authority which issued the applicant's existing license to practice medicine are or were in any degree or particular less than those which were required for the issuance of a physician's and surgeon's certificate in this state at the date of the issuance of the applicant's current certificate, or the applicant has not complied with the alternative provided by Section 2143, a physician's and surgeon's certificate shall not be issued unless the applicant takes and passes an examination administered by the division.

2146. An oral examination shall not be deemed to be of equal merit with a written examination for licensure, and no reciprocity certificate shall be issued based upon a license issued by a medical licensing authority where the requirements for licensure provided for an oral examination only.

2147. (a) Any certificate or license upon which a reciprocity application is based shall have been issued to the applicant within a period of five years immediately preceding the filing of the application at the office of the Division of Licensing in Sacramento.

(b) If the applicant's certificate or license upon which his or her application is based was issued more than five years prior to the filing of the application, then the applicant shall be required to take and pass an oral examination administered by the Division of Licensing in accordance with Section 2148.

2148. The Division of Licensing shall administer an examination to applicants for reciprocity certificates required to take such an examination by Section 2147 at least every six months. The examination shall be an oral and comprehensive clinical examination, and full consideration shall be given to the duration and character of the applicant's practice.

2151. Notwithstanding any other provision of law, the Division of Licensing may issue a physician's and surgeon's certificate to a diplomate of the National Board of Medical Examiners provided the following requirements are met:

(a) The standard of the National Board of Medical Examiners on

the date the diplomate certificate was issued was in no degree or particular less than that which was required for a physician's and surgeon's certificate under this chapter on the same date.

(b) The applicant shall file an application with the division as provided in Article 4 (commencing with Section 2080). The applicant shall not, however, be required to comply with any provision of that article which is inconsistent with or in conflict with the provisions of this section.

(c) The application shall be accompanied by the fee required in Section 2435.

(d) The applicant shall satisfy the division that the diplomate certificate was procured without fraud or misrepresentation.

(e) The applicant shall not have committed any acts or crimes constituting grounds for denial of a certificate under Section 480 or Article 12 (commencing with Section 2220).

(f) The division may in its discretion issue a physician's and surgeon's certificate under this section with or without an oral examination.

2152. The Division of Licensing shall not reject an application for a physician's and surgeon's certificate by reciprocity solely on the basis that the medical licensing authority issuing the applicant's certificate or license permitted the applicant to take the basic science examination given by the National Board of Podiatry Examiners or the National Board of Medical Examiners, as a part of that state's qualifying examination.

2153. In addition to the requirements of Section 164, a certificate issued under this article shall include in its description the basis upon which the certificate was issued.

#### Article 8. Loans to Medical Students

2155. For the purposes of this article:

(a) "Division" means the Division of Licensing.

(b) "The practice of medicine" means all activities authorized by a physician's and surgeon's certificate, except activities performed in the course of employment as a public health officer, as a medical school faculty member where teaching time is more than 25 percent of the working day, or as a resident or first-year postgraduate trainee.

(c) "Area deficient in physician services" means:

(1) Any county in the state in which the number of physicians, not employed by the federal government, engaged in the practice of medicine is found by the division to be in a ratio of less than 100 for every 100,000 county residents, and which the division finds to be in need of physician services.

(2) Any city or area within a county or city in the state which the division finds to be lacking in adequate physician services.

2156. Applications for loans shall be made to the division upon forms provided by it, at the times and in the manner prescribed in regulations adopted by the division.

2157. No medical student shall be awarded a loan under this article unless he or she complies with all of the following:

(a) The applicant is a resident of California.

(b) The applicant is enrolled in at least the second year of the resident course of professional instruction in an approved medical school in this state granting a medical doctor degree, or the student is enrolled in a program of supervised clinical training established pursuant to Section 2104 and he or she has completed a resident course of professional instruction equivalent to that required in Section 2089.

(c) The applicant has demonstrated financial need to the division.

(d) The applicant has agreed to continue his or her education and training with the intention of practicing medicine in an area deficient in physician services.

(e) The applicant has complied with the regulations adopted by the division implementing this article.

2158. The division shall award the loans to applicants which it determines have the greatest financial need for such funds. The division shall not award any loan to any applicant if it determines that the applicant has adequate financial resources to support himself or herself and family.

2159. There shall be at least 50 loans available each year. The amount of each loan shall not exceed two thousand dollars (\$2,000) for an academic year. In any event, no student shall receive more than four thousand dollars (\$4,000) in loans.

2160. The interest to be paid shall be two percentage points less than the authorized interest rate on California Water Bonds at the time of the loan.

2163. The loan shall be repayable to the Contingent Fund of the Board of Medical Quality Assurance in equal or graduated periodic installments, according to a schedule agreed upon by the division and the borrower, over a 10-year period which shall begin three years after the student ceases to pursue a full-time course of professional instruction, excluding from such 10-year period all periods, up to three years, of (a) active duty performed by the borrower as a member of the United States armed forces, or (b) nonmilitary public services performed by the borrower which the division finds to be in the public interest.

2164. Where any borrower who has obtained one or more loans under this article engages in the practice of medicine in an area deficient in physician services, 25 percent of the total of such loans plus accrued interest on such amount which are unpaid as of the date that such practice begins shall be cancelled thereafter for each year of such practice.

2165. The division shall make a determination as to which areas of the state are deficient in physician services. This study shall be updated every two years and shall be the basis for notifying loan recipients of areas which will satisfy the loan exemption provisions of this article. The division may utilize studies or surveys made of

areas deficient in physician services by other state or federal agencies.

2166. The liability to repay the unpaid balance of the loan and accrued interest thereon shall be cancelled upon the death of the borrower, or if the division determines that he or she has become permanently disabled and is unable to engage in substantial gainful activity.

2167. The division may assess a charge with respect to a loan made under this article for failure of the borrower to pay all or part of an installment when due and, in the case of a borrower who is entitled to a deferment under Section 2163 or cancellation of part or all of the loan under Section 2164 or 2166, for any failure to file timely and satisfactory evidence of such entitlement. The amount of any such charge may not exceed two dollars (\$2) for each month by which such installment or evidence is late, except that there shall be no charge for the first month.

#### Article 9. Examinations

2170. (a) All applicants for a physician's and surgeon's certificate shall take the examination provided for in this article unless provisions of this chapter otherwise provide.

(b) The provisions of this article shall apply to all examinations administered by the Division of Licensing unless provisions of this chapter otherwise provide.

2171. All examinations shall be practical in character and designed to ascertain the applicant's fitness to practice medicine. Unless otherwise provided the examination shall be in writing.

2172. The Division of Licensing may appoint qualified persons to give the whole or any portion of any examination as provided in this chapter, who shall be designated as examination commissioners. The board may fix the compensation of such persons subject to the provisions of applicable state laws and regulations.

2173. The examination shall be conducted in the English language. Upon the submission of satisfactory proof from the applicant that he or she is unable to meet the requirements of the examination in English, the Division of Licensing may allow the use of an interpreter, either to be present in the examination room or thereafter to interpret and transcribe the answers of the applicant. The division in its discretion may select an examinee's interpreter or approve the selection of an interpreter by the examinee. The expenses of the interpreter shall be paid by the examinee and shall be paid before the examination is administered.

2174. The examinations may be conducted in any part of the state or another state designated by the Division of Licensing. A notice of each examination administered by the division shall specify the time and place of the examination.

2175. Examination records shall be kept on file by the Division of Licensing for a period of one year. Examinees shall be known and

designated by number only, and the name attached to the number shall be kept secret until the examinee is sent notification of the results of the examinations.

2176. Examinations for a physician's and surgeon's certificate may be conducted by the Division of Licensing under a uniform examination system, and for that purpose the division may make such arrangements with organizations furnishing examination material as it may deem desirable.

2177. If the written examination prescribed in this article consists of an examination divided into parts, the applicant may elect to take any part or combination of parts at one examination and complete the examination on the following examination date.

2178. At the discretion of the Division of Licensing the written examination prescribed in this article may be taken following completion of the applicant's course of professional instruction prior to the granting of a degree by the medical school.

2179. It is the intent of the Legislature that the Division of Licensing strongly urge those organizations responsible for the development of physician licensing examinations to include within those examinations an increased emphasis on human nutrition.

2183. Applicants for a physician's and surgeon's certificate shall pass an examination in the following subjects:

- (a) Anatomy.
- (b) Biochemistry.
- (c) Medicine.
- (d) Obstetrics and gynecology.
- (e) Pathology and microbiology.
- (f) Pediatrics.
- (g) Pharmacology.
- (h) Physiology.
- (i) Psychiatry.
- (j) Public health and preventive medicine, including radiation safety.
- (k) Surgery.

Such applicants shall also pass an examination designed to test their clinical competence.

2184. There shall be at least 10 questions on each subject included in the examination. Each applicant shall obtain at least a score of 75 percent.

2185. Any applicant for a physician's and surgeon's certificate who obtains a score of at least 75 percent in seven subjects shall be reexamined in those subjects only in which he or she failed and without additional fee.

2186. An applicant who is a diplomate of the National Board of Medical Examiners shall not be required to take the written examination prescribed by this article, provided such applicant meets the requirements of Section 2151.

### Article 10. Continuing Medical Education

2190. In order to insure the continuing competence of licensed physicians and surgeons the Division of Licensing shall adopt and administer standards for the continuing education of such licensees. The division shall require each licensed physician and surgeon to demonstrate satisfaction of the continuing education requirements at intervals of not less than four nor more than six years.

2191. (a) In determining its continuing education requirements, the Division of Licensing shall consider including a course in human sexuality as defined in Section 2090 and nutrition to be taken by those licensees whose practices may require knowledge in such areas.

(b) The division shall consider including a course in child abuse detection and treatment to be taken by those licensees whose practices are such that there is a likelihood of contact with abused or neglected children.

2196. The board shall periodically develop and disseminate information and educational material regarding the detection and treatment of child abuse and neglect to each licensed physician and surgeon and to each general acute care hospital in the state. The board shall consult with the Office of Child Abuse Prevention in developing the materials distributed pursuant to this section.

### Article 12. Enforcement

2220. Except as otherwise provided by law, the Division of Medical Quality may take action against all persons guilty of violating the provisions of this chapter. The division shall enforce and administer the provisions of this article as to physician and surgeon certificate holders, and the division shall have all the powers granted in this chapter for these purposes.

2221. The Division of Licensing may deny a physician's and surgeon's certificate to any applicant guilty of unprofessional conduct and for that purpose shall exercise all the powers granted in this chapter.

2222. The Podiatry Examining Committee shall enforce and administer the provisions of this article as to podiatry certificate holders. The committee may order the denial of an application or order the revocation, suspension, or other restriction of, or the modification of such penalty, and the reinstatement of any podiatrist's certificate within its authority as granted by this chapter. For these purposes the committee shall exercise the powers granted in this chapter.

2223. All administrative and disciplinary proceedings which are not final prior to December 12, 1975, shall be brought to a final determination under the procedures set forth in the Medical Practice Act, as amended and effective on December 12, 1975, and as thereafter amended.

2224. The Division of Medical Quality may delegate the authority

under this chapter to conduct investigations and inspections and to institute proceedings to the executive director of the board or such other personnel as set forth in Section 2020, but shall not delegate its authority to take final disciplinary action against a licensee as provided in Section 2227 and other provisions of this chapter, its authority to reinstate a license, or its authority to terminate or modify a term of probation, except as provided in Section 2307 to a Medical Quality Review Committee.

2225. Notwithstanding Section 2263 and any other provision of law making a communication between a physician and surgeon or a podiatrist and his or her patients a privileged communication, such provisions shall not apply to investigations or proceedings conducted under this chapter. Members of the board and the Podiatry Examining Committee, and employees, agents, and representatives of the board shall keep in confidence during the course of investigations, the names of any patients whose records are reviewed and may not disclose or reveal, except as is necessary during the course of an investigation, such names unless and until proceedings are instituted. The board's authority to examine records of patients in the office of a physician and surgeon or a podiatrist is limited to records of patients who have complained to the board about such licensee.

Waiver of privileges shall not apply to investigations under Section 2297 relating to mental illness.

2226. The Division of Medical Quality may inspect a licensed general or specialized hospital and require reports therefrom to determine if the hospital has adopted and is complying with the provisions of Sections 2282 and 2283. The division may inspect medical staff and patient hospital medical records subject to the provisions of Section 2225. Notwithstanding Section 2224, the division's authority under this section shall be delegated only to a licensed physician and surgeon.

2227. A licensee whose matter has been heard by the Division of Medical Quality, by a medical quality review committee or a panel of such committee, or by an administrative law judge, or whose default has been entered, and who is found guilty may, in accordance with the provisions of this chapter:

- (a) Have his or her certificate revoked upon order of the division.
- (b) Have his or her right to practice suspended for a period not to exceed one year upon order of the division or a committee or panel thereof.
- (c) Be placed on probation upon order of the division or a committee or panel thereof.
- (d) Publicly reprimanded by the division or a committee or panel thereof.
- (e) Have such other action taken in relation to discipline as the division, a committee or panel thereof, or an administrative law judge may deem proper.

2228. The authority of the Division of Medical Quality or a

medical quality review committee or panel thereof to discipline a licensee by placing him or her on probation includes, but is not limited to, the following:

(a) Requiring the licensee to obtain additional professional training and to pass an examination upon the completion of such training. The examination may be written or oral, or both, and may be a practical or clinical examination, or both, at the option of the division, committee, panel, or administrative law judge.

(b) Requiring the licensee to submit to a complete diagnostic examination by one or more physicians and surgeons appointed by the division, committee, or panel. If such an examination is ordered, the division, committee, or panel shall receive and consider any other report of a complete diagnostic examination given by one or more physicians and surgeons of the licensee's choice.

(c) Restricting or limiting the extent, scope, or type of practice of the licensee.

2229. In exercising its disciplinary authority the Division of Medical Quality or a medical quality review committee or panel thereof shall, wherever possible, take such action as is calculated to aid in the rehabilitation of the licensee, or where, due to lack of continuing education or other reasons, restriction on scope of practice is indicated, to order such restrictions as are indicated by the evidence. It is the intent of the Legislature that the division and committees shall seek out those licensees who have demonstrated deficiencies in competency and then take such actions as are indicated, with priority given to those measures, including further education, restrictions from practice or other means that will remove such deficiencies.

2230. All proceedings against a licensee for unprofessional conduct or applicant for licensure for unprofessional conduct or cause shall be conducted in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

2231. The circumstances of practice of any licensee shall be investigated where there have been any judgments, settlements, or arbitration awards requiring the licensee or the licensee's professional liability insurer to pay an amount in damages in excess of a cumulative total of thirty thousand dollars (\$30,000) with respect to any claim that injury or damage was proximately caused by the licensee's error, negligence, or omission.

2234. The Division of Medical Quality shall take action against any licensee who is charged with unprofessional conduct. In addition to other provisions of this article, unprofessional conduct includes, but is not limited to, the following:

(a) Violating or attempting to violate, directly or indirectly, or assisting in or abetting the violation of, or conspiring to violate, any provision of this chapter.

(b) Gross negligence.

(c) Repeated similar negligent acts.

(d) Incompetence.

(e) The commission of any act involving dishonesty or corruption which is substantially related to the qualifications, functions, or duties of a physician and surgeon.

(f) Any action or conduct which would have warranted the denial of a certificate.

2235. The Division of Medical Quality shall initiate action against any licensee who obtains a certificate by fraud or misrepresentation, including a reciprocity certificate which is based upon a certificate or license obtained by fraud or mistake. The division shall take action against any licensee whose certificate was issued by mistake.

2236. (a) The conviction of any offense substantially related to the qualifications, functions, or duties of a physician and surgeon constitutes unprofessional conduct within the meaning of this chapter. The record of conviction shall be conclusive evidence only of the fact that the conviction occurred.

(b) The division may inquire into the circumstances surrounding the commission of the crime in order to fix the degree of discipline or to determine if such conviction is of an offense substantially related to the qualifications, functions, or duties of a physician and surgeon. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge substantially related to the qualifications, functions, or duties of a physician and surgeon is deemed to be a conviction within the meaning of this section.

(c) Discipline may be ordered in accordance with Section 2227, or the Division of Licensing may order the denial of the license 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 allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

2237. (a) The conviction of a charge of violating any federal statutes or regulations or any statute or regulation of this state, regulating narcotics, dangerous drugs, or controlled substances, constitutes unprofessional conduct. The record of the conviction is conclusive evidence of such unprofessional conduct. A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section.

(b) Discipline may be ordered in accordance with Section 2227 or the Division of Licensing may order the denial of the license 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 allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

2238. A violation of any federal statute or federal regulation or any of the statutes or regulations of this state regulating narcotics, dangerous drugs, or controlled substances constitutes unprofessional conduct.

2239. (a) The use or prescribing for or administering to himself or herself, of any of the controlled substances specified in Schedule I of Section 11054, or Schedule II of Section 11055, or any narcotic drug specified in Schedule III of Section 11056, of the Health and Safety Code; or the use of any of the dangerous drugs specified in Section 4211, or of alcoholic beverages, to the extent, or in such a manner as to be dangerous or injurious to the licensee, or to any other person or to the public, or to the extent that such use impairs the ability of the licensee to practice medicine safely or 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. The record of the conviction is conclusive evidence of such unprofessional conduct.

(b) A plea or verdict of guilty or a conviction following a plea of nolo contendere is deemed to be a conviction within the meaning of this section. The Division of Medical Quality may order discipline of the licensee in accordance with Section 2227 or the Division of Licensing may order the denial of the license 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 imposition of sentence, irrespective of a subsequent order under the provisions of Section 1203.4 of the Penal Code allowing such person to withdraw his or her plea of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

2240. Every licensee who, while in actual attendance on patients, is intoxicated to such an extent as to impair his or her ability to conduct the practice of medicine with safety to the public and his or her patients, is guilty of unprofessional conduct.

2241. Unless otherwise provided by this section, the prescribing, selling, furnishing, giving away, or administering or offering to prescribe, sell, furnish, give away, or administer any of the drugs or compounds mentioned in Section 2239 to an addict or habitué constitutes unprofessional conduct.

If the drugs or compounds are administered or applied by a licensed physician and surgeon or by a registered nurse acting under his or her instruction and supervision, this section shall not apply to any of the following cases:

(a) Emergency treatment of a patient whose addiction is complicated by the presence of incurable disease, serious accident or injury, or the infirmities attendant upon age.

(b) Treatment of addicts or habitués in state licensed institutions where the patient is kept under restraint and control, or in city or county jails or state prisons.

(c) Treatment of addicts as provided for by Section 11217.5 of the Health and Safety Code.

2242. (a) Prescribing, dispensing, or furnishing dangerous drugs as defined in Section 4211 without a good faith prior examination and medical indication therefor, constitutes unprofessional conduct.

(b) No licensee shall be found to have committed unprofessional conduct within the meaning of this section if, at the time the drugs were prescribed, dispensed, or furnished, any of the following applies:

(1) The licensee was a designated physician and surgeon or podiatrist serving in the absence of the patient's physician and surgeon or podiatrist, as the case may be, provided such drugs were prescribed, dispensed, or furnished only as necessary to maintain the patient until the return of his or her practitioner, but in any case no longer than 72 hours.

(2) The licensee transmitted the order for such drugs to a registered nurse or to a licensed vocational nurse in an inpatient facility (A) if such practitioner had consulted with such registered nurse or licensed vocational nurse who had reviewed the patient's records and (B) if such practitioner was designated as the practitioner to serve in the absence of the patient's physician and surgeon or podiatrist, as the case may be.

(3) The licensee was a designated practitioner serving in the absence of the patient's physician and surgeon or podiatrist, as the case may be, and was in possession of or had utilized the patient's records and ordered the renewal of a medically indicated prescription for an amount not exceeding the original prescription in strength or amount or for more than one refilling.

2250. The willful failure to comply with the requirements of Article 6 (commencing with Section 14191) of Chapter 7 of Part 3 of Division 9 of the Welfare and Institutions Code and the regulations promulgated thereunder, relating to informed consent for sterilization procedures, constitutes unprofessional conduct.

2251. The prescribing, dispensing, administering, or furnishing of liquid silicone for the purpose of injecting such substance into a human breast or mammary constitutes unprofessional conduct.

2252. The violation of any provision of Chapter 7 (commencing with Section 1700) of Division 2 of the Health and Safety Code, or any violation of an injunction or cease and desist order issued under such provisions, relating to the treatment of cancer, constitutes unprofessional conduct.

2253. The procuring or aiding or abetting or attempting or agreeing or offering to procure an illegal abortion constitutes unprofessional conduct, unless such act is done in compliance with the provisions of the Therapeutic Abortion Act (Chapter 11 (commencing with Section 25950) of Division 20 of the Health and Safety Code).

2254. The violation of Section 25956 of the Health and Safety Code, relating to research on aborted products of human conception,

constitutes unprofessional conduct.

2255. The violation of any provision of Chapter 2.3 (commencing with Section 1400) of Division 2 of the Health and Safety Code, relating to the unlawful referral of patients to extended care facilities, constitutes unprofessional conduct.

2256. Any intentional violation of Sections 5326.2 to 5326.8, inclusive, of the Welfare and Institutions Code, relating to the rights of involuntarily confined inpatients, constitutes unprofessional conduct.

2261. Knowingly making or signing any certificate or other document directly or indirectly related to the practice of medicine or podiatry which falsely represents the existence or nonexistence of a state of facts, constitutes unprofessional conduct.

2262. Altering or modifying the medical record of any person, with fraudulent intent, or creating any false medical record, with fraudulent intent, constitutes unprofessional conduct.

In addition to any other disciplinary action, the Division of Medical Quality or the Podiatry Examining Committee may impose a civil penalty of five hundred dollars (\$500) for a violation of this section.

2263. The willful, unauthorized violation of professional confidence constitutes unprofessional conduct.

2264. The employing, directly or indirectly, the aiding, or the abetting of any unlicensed person or any suspended, revoked, or unlicensed practitioner to engage in the practice of medicine or any other mode of treating the sick or afflicted which requires a license to practice constitutes unprofessional conduct.

2265. The supervision, use, or employment of a physician's assistant who is certified or practicing under interim approval, without the approval of the Division of Allied Health Professions, constitutes unprofessional conduct.

2271. Any advertising in violation of Section 17500, relating to false or misleading advertising, constitutes unprofessional conduct.

2272. Any advertising of the practice of medicine in which the licensee fails to use his or her own name or approved fictitious name constitutes unprofessional conduct.

2273. Except as otherwise allowed by law, the employment of cappers, steerers, or other persons to procure patients constitutes unprofessional conduct.

2274. The use by any licensee of any certificate, of any letter, letters, word, words, term, or terms either as a prefix, affix, or suffix indicating that he or she is entitled to engage in a medical practice for which he or she is not licensed constitutes unprofessional conduct.

2275. Any person who held a physician's and surgeon's certificate under the jurisdiction of the Board of Osteopathic Examiners of the State of California and a degree of doctor of medicine issued by a medical school located in the state at any time prior to September 30, 1962, and approved by either the Board of Osteopathic Examiners or the Board of Medical Examiners of the State of California at the

time such degree was issued, who applied in writing to such Board of Medical Examiners for permission to utilize his or her degree of doctor of medicine, shall be authorized to use the term or suffix "M.D." and such use shall not constitute unprofessional conduct, so long as such person advised both boards, in writing, that he or she has elected to use such term or suffix and further has elected not to use the term or suffix "D.O." In the event of such election, the use of the term or suffix "D.O." constitutes unprofessional conduct within the meaning of this chapter.

2276. Unless the holder of any certificate provided for in this chapter has been granted the degree of doctor of osteopathy after the completion of a full course of study as prescribed by an approved osteopathic medical school in accordance with the provisions of this chapter, the use of the term or suffix "D.O." constitutes unprofessional conduct.

2277. Unless the holder of any certificate provided for in this chapter has been granted the degree of doctor of podiatric medicine or doctor of surgical podiatry after the completion of a full course of study as prescribed by a school or college of podiatric medicine in accordance with the provisions of this chapter, the use of the terms or suffixes "D.P.M." or "D.S.P." constitutes unprofessional conduct.

2278. Unless a person authorized under this chapter to use the title "doctor" or the letters or prefix "Dr." holds a physician's and surgeon's certificate, the use of such title, letters, or prefix without further indicating the type of certificate held, constitutes unprofessional conduct.

2280. It constitutes unprofessional conduct to engage in the practice of medicine without causing to be displayed in a conspicuous manner and in a conspicuous place in his or her office or primary place of practice the name of each and every person who is associated with or employed by a licensee in the practice of medicine or podiatric medicine.

2281. It constitutes unprofessional conduct to fail, individually or in a representative or other capacity, to furnish the Division of Medical Quality with the information required by this section within 10 days after a demand for it has been made by the division.

This information shall consist of the name and address of all persons associated with or employed by a licensee or by any company or association with which the physician and surgeon is or has been connected at any time within 60 days prior to the demand, together with a sworn statement showing under and by what license or authority the person or persons, employee or employees are, or have been practicing medicine or podiatric medicine.

Any person upon whom the division makes a demand for the information shall make an affidavit that there are no person or persons associated or employed by him or her, if this is the fact. The affidavit shall not be used as evidence against the person or employee in any proceedings under this section.

2282. The regular practice of medicine in a licensed general or

specialized hospital having five or more physicians and surgeons on the medical staff, which does not have rules established by the board of directors thereof to govern the operation of the hospital, which rules include, among other provisions, all the following, constitutes unprofessional conduct:

(a) Provision for the organization of physicians and surgeons licensed to practice in this state who are permitted to practice in the hospital into a formal medical staff with appropriate officers and bylaws and with staff appointments on an annual or biennial basis.

(b) Provision that membership on the medical staff shall be restricted to physicians and surgeons and other licensed practitioners competent in their respective fields and worthy in professional ethics. In this respect the division of profits from professional fees in any manner shall be prohibited and any such division shall be cause for exclusion from the staff.

(c) Provision that the medical staff shall be self-governing with respect to the professional work performed in the hospital; that the medical staff shall meet periodically and review and analyze at regular intervals their clinical experience; and the medical records of patients shall be the basis for such review and analysis.

(d) Provision that adequate and accurate medical records be prepared and maintained for all patients.

2283. The regular practice of medicine in a licensed general or specialized hospital having less than five physicians and surgeons on the medical staff, which does not have rules established by the board of directors thereof to govern the operation of the hospital, which rules include, among other provisions, all of the following, constitutes unprofessional conduct:

(a) Provision that membership on the medical staff shall be restricted to physicians and surgeons and other licensed practitioners competent in their respective fields and worthy in professional ethics. In this respect the division of profits for professional fees in any manner shall be prohibited and any such division shall be cause for exclusion from the staff.

(b) Provision that adequate and accurate medical records be prepared and maintained for all patients.

2284. (a) A licensed physician and surgeon or a licensed podiatrist, or a group of physicians and surgeons or podiatrists, or a medical or podiatry corporation shall not share in any fee charged by an acupuncturist or receive any consideration from or on behalf of such acupuncturist for any referral or diagnosis.

(b) A licensed physician and surgeon or podiatrist shall not employ more than one acupuncturist.

(c) A group of physicians and surgeons or podiatrists, or a medical or podiatry corporation, shall not employ more than one acupuncturist for every 20 practitioners in such group or corporation.

2285. The use of any fictitious, false, or assumed name, or any name other than his or her own by a licensee either alone, in conjunction with a partnership or group, or as the name of a

professional corporation, in any public communication, advertisement, sign, or announcement of his or her practice without a fictitious-name permit obtained pursuant to Section 2415 constitutes unprofessional conduct.

2286. It shall constitute unprofessional conduct for any licensee to violate, to attempt to violate, directly or indirectly, to assist in or abet the violation of, or to conspire to violate any provision or term of Article 18 (commencing with Section 2400), of the Moscone-Knox Professional Corporation Act (Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code), or of any rules and regulations duly adopted under those laws.

2287. The purchase, sale, or barter, or offering to purchase, sell, or barter any medical or podiatric degree, or any degree, diploma, certificate, affidavit, transcript, or other evidence made or purporting to be made, pursuant to any laws regulating the licensure of persons under this chapter, or any preceding medical practice act or for use in connection with the granting of any certificates or diplomas or the purchase, procurement, or altering in any material regard, with fraudulent intent, a diploma, certificate, affidavit, transcript, or other evidence required for issuing any certificate or diploma that has been purchased, fraudulently issued, counterfeited, or materially altered constitutes unprofessional conduct. The attempt to or conspiring to violate this section also constitutes unprofessional conduct.

2288. The impersonation of any applicant or acting as proxy for any applicant in any examination required under this chapter for a certificate constitutes unprofessional conduct.

2289. The impersonation of another licensed practitioner or permitting or allowing another person to use his or her certificate to engage in the practice of medicine or podiatric medicine constitutes unprofessional conduct.

2290. The provisions of Article 4 (commencing with Section 580) of Chapter 1, relating to frauds of medical records, degrees, diplomas, certificates, and transcripts are not affected by the provisions of this article and, so far as any act is a crime within their scope, such provisions control over the provisions of this article.

2291. It is unprofessional conduct for any licensee not a member or authorized official of the board, or of the Podiatry Examining Committee in the case of a doctor of podiatric medicine, to sign or issue or cause to be signed or issued any certificate authorized by this chapter.

2296. Whenever it appears to the Division of Medical Quality that a licensee is mentally ill to the extent the licensee's ability to practice medicine safely is impaired, the division may order the licensee to be examined by one or more physicians and surgeons specializing in psychiatry designated by the division. The report of such persons shall be made available to the licensee and may be received as direct evidence in a proceeding conducted pursuant to Section 2297.

2297. If a licensee becomes mentally ill to such an extent as to

affect his or her ability to practice medicine safely, the Division of Medical Quality may take action by any one of the following methods:

- (a) Suspending judgment.
- (b) Placing the licensee on probation.
- (c) Suspending the licensee's right to practice for a period not exceeding one year.
- (d) Revoking the licensee's certificate.
- (e) Taking such other action in relation to the licensee as the division in its discretion deems proper.

The division shall not reinstate a suspended or revoked certificate until it has received competent evidence of the absence or control of the condition which caused its action and until it is satisfied that with due regard for the public health and safety the person's right to practice may be safely reinstated.

2298. The Division of Medical Quality may proceed against a licensee under either Section 2296 or 2297, or both such sections.

2299. In reinstating a certificate which has been revoked or suspended under Section 2297, the Division of Medical Quality may impose terms and conditions to be followed by the licensee after the certificate has been reinstated. The authority of the division to impose terms and conditions includes, but is not limited to, the following:

(a) Requiring the licensee to obtain additional professional training and to pass an examination upon the completion of the training.

(b) Requiring the licensee to pass an oral, written, practical, or clinical examination, or any combination thereof to determine his or her present fitness to engage in the practice of medicine.

(c) Requiring the licensee to submit to a complete diagnostic examination by one or more physicians and surgeons appointed by the division. If the division requires the licensee to submit to such an examination, the division shall receive and consider any other report of a complete diagnostic examination given by one or more physicians and surgeons of the licensee's choice.

(d) Restricting or limiting the extent, scope, or type of practice of the licensee.

2305. The revocation, suspension, or other discipline by another state of a license or certificate to practice medicine issued by the state to a licensee under this chapter shall constitute grounds for disciplinary action for unprofessional conduct against such licensee in this state.

2306. If a licensee's right to practice medicine is suspended, he or she shall not engage in the practice of medicine during the term of such suspension. Upon the expiration of the term of suspension, the certificate shall be reinstated by the Division of Medical Quality, unless the licensee during the term of suspension is found to have engaged in the practice of medicine in this state. In that event, the division shall revoke the licensee's certificate to engage in the

practice of medicine.

2307. A person whose certificate has been revoked or suspended or who has been placed on probation may petition the Division of Medical Quality for reinstatement or modification of penalty, including modification or termination of probation, after a period of not less than one year has elapsed from the effective date of the decision ordering such disciplinary action.

The petition shall state such fact as may be required by the division. The petition shall be accompanied by at least two verified recommendations from physicians and surgeons licensed by the board who have personal knowledge of the activities of the petitioner since the disciplinary penalty was imposed. The petition may be heard by the division, or the division may assign the petition to a medical quality review committee for hearing by a panel thereof duly constituted under Section 2323. For the purposes of such a hearing, five members of a panel shall constitute a quorum.

The division or a panel hearing the petition may consider all activities of the petitioner since the disciplinary action was taken, the offense for which the petitioner was disciplined, the petitioner's activities during the time the certificate was in good standing, and the petitioner's rehabilitative efforts, general reputation for truth, and professional ability. The hearing may be continued from time to time as the division or panel finds necessary.

The division or panel reinstating a certificate or modifying a penalty may impose such terms and conditions as it deems necessary. To reinstate a revoked certificate requires the affirmative vote of at least five members of the division or the unanimous vote of the panel hearing the petition, as the case may be. To otherwise reduce a penalty or modify probation requires the affirmative vote of at least four members of the division or the affirmative vote of at least three members of the panel hearing the petition, as the case may be. A decision by the division or a panel shall be final.

No petition shall be considered while the petitioner is under sentence for any criminal offense, including any period during which the petitioner is on court-imposed probation or parole. The division may deny without a hearing or argument any petition filed pursuant to this section within a period of two years from the effective date of the prior decision following a hearing under this section.

2311. Whenever any person has engaged in or is about to engage in any acts or practices which constitute or will constitute an offense against this chapter, the superior court of any county, on application of the board, any division of the board, or of 10 or more persons licensed as physicians and surgeons or as podiatrists in this state may issue an injunction or other appropriate order restraining such conduct. Proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure, except that no undertaking shall be required in any action commenced by the board or a division thereof.

2312. The Division of Medical Quality shall seek to obtain an

injunction against any physician and surgeon within its jurisdiction if the division has reasonable cause to believe that allowing such person to continue to engage in the practice of medicine would endanger the public health, safety, or welfare.

2313. The Division of Medical Quality shall report annually to the Legislature, no later than April 1 of each year, the following information:

(a) The total number of temporary restraining orders sought by the board or the division to enjoin licensees pursuant to Sections 125.7, 125.8 and 2311, the circumstances in each case which prompted the board or division to seek such injunctive relief, and whether a restraining order was actually issued.

(b) The total number and types of actions for unprofessional conduct taken by the board or a division against licensees, the number and types of actions taken against licensees for unprofessional conduct related to prescribing drugs, narcotics, or other controlled substances, and the total number and types of actions taken against licensees for unprofessional conduct resulting from cases referred by the State Department of Health Services pursuant to Section 14124 of the Welfare and Institutions Code, relating to suspension of provider status for state medical assistance.

“Action,” for purposes of this section, includes proceedings brought by, or on behalf of, the division against licensees for unprofessional conduct which have not been finally adjudicated, as well as disciplinary actions taken against licensees.

2314. Unless it is otherwise expressly provided, any person, whether licensed under this chapter or not, who violates any provision of this article is guilty of a misdemeanor.

2315. Except as otherwise provided by law, any person found guilty of a misdemeanor for a violation of this chapter 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.

2317. If a person, not a regular employee of the board, is hired or under contract to provide expertise to the Division of Medical Quality or to the Podiatry Examining Committee in the evaluation of the conduct of a licensee, and such person is named as a defendant in a civil action for defamation directly resulting from opinions rendered, statements made, or testimony given to the division or committee or its representatives, the board shall provide for representation required to defend the defendant in such a civil action. The board shall not be liable for any judgment rendered against such person. The Attorney General shall be utilized in such actions as provided in Section 2020.

### Article 13. Medical Quality Review Committees

2320. The Legislature finds and declares that the public health requires the establishment of procedures to assure the maintenance of high quality medical practice by holders of certificates under this chapter.

The Legislature intends by this article to establish a system of medical quality review committees under the jurisdiction of the Division of Medical Quality to initiate a continuing review of the quality of medical practice by physician and surgeon certificate holders and to undertake such remedial or disciplinary functions as are specified herein and appropriate for the protection of the public and the licensee.

2321. As used in this article:

(a) "Division" means the Division of Medical Quality of the Board of Medical Quality Assurance.

(b) "Committee" means a medical quality review committee.

(c) "District" means a district established by Section 2322.

2322. The state is divided, for the purposes of this article, into the following 14 districts:

(a) The first district consists of the Counties of Del Norte, Siskiyou, Modoc, Humboldt, Trinity, Shasta, Lassen, Tehama, Plumas, Mendocino, Glenn, Butte, Lake, and Colusa.

(b) The second district consists of the Counties of Sierra, Yuba, Sutter, Yolo, Nevada, Placer, El Dorado, and Sacramento.

(c) The third district consists of the Counties of Sonoma, Napa, and Solano.

(d) The fourth district consists of the Counties of Marin, San Francisco, and San Mateo.

(e) The fifth district consists of the Counties of Contra Costa and Alameda.

(f) The sixth district consists of the Counties of Alpine, Amador, Calaveras, Tuolumne, San Joaquin, Stanislaus, and Merced.

(g) The seventh district consists of the County of Santa Clara.

(h) The eighth district consists of the Counties of Santa Cruz, San Benito, Monterey, and San Luis Obispo.

(i) The ninth district consists of the Counties of Mariposa, Madera, Fresno, Kings, Tulare, and Kern.

(j) The 10th district consists of the Counties of Santa Barbara and Ventura.

(k) The 11th district consists of the County of Los Angeles.

(l) The 12th district consists of the Counties of Mono, Inyo, San Bernardino, and Riverside.

(m) The 13th district consists of the County of Orange.

(n) The 14th district consists of the Counties of San Diego and Imperial.

2323. A medical quality review committee is hereby created for each of the districts established by Section 2322. Each committee shall be composed of persons appointed by the Governor from

among residents of the district.

The medical quality review committees shall have the following composition:

(a) The first district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.

(b) The second district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(c) The third district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.

(d) The fourth district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(e) The fifth district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(f) The sixth district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.

(g) The seventh district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(h) The eighth district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.

(i) The ninth district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(j) The 10th district shall be composed of 10 members, six of whom shall hold valid physician's and surgeon's certificates, two of whom shall be public members, and two of whom shall be nonphysician licentiates of a healing arts board.

(k) The 11th district shall be composed of 40 members, 24 of whom shall hold valid physician's and surgeon's certificates, eight of whom shall be public members, and eight of whom shall be nonphysician licentiates of a healing arts board.

(l) The 12th district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of

whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(m) The 13th district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

(n) The 14th district shall be composed of 15 members, nine of whom shall hold valid physician's and surgeon's certificates, three of whom shall be public members, and three of whom shall be nonphysician licentiates of a healing arts board.

A medical quality review committee may, pursuant to regulations adopted by the division, establish panels of five committee members consisting of three physician members, one public member, and one member who is a nonphysician licentiate of a healing arts board for the purposes of hearing and deciding cases before a committee. Three members shall constitute a quorum in order for a panel of a committee to conduct business. It shall require an affirmative vote of three members of a panel to decide any case, pass any measure, or make any recommendation. Where a medical quality review committee meets as a whole, a majority of the membership of the committee shall constitute a quorum to conduct business. It shall require an affirmative vote of a majority of those present at a meeting of a committee constituting at least a quorum to decide any case, pass any motion, or make any recommendation.

A finding or decision by a panel established under this section shall constitute a finding or decision by a committee.

2324. (a) Each member of each committee shall be appointed by the Governor for a term of four years and shall be appointed by the Governor from residents of the district.

(b) Of those appointments of physicians and surgeons to be made by the Governor, for every three physicians and surgeons to be so appointed, one shall be appointed from among not less than three persons to be nominated by professional medical societies, within the district, which represent the profession at large, one shall be appointed from faculty of a clinical department of an approved medical school in the state, and one member shall be appointed from among not less than three nominations which are submitted to him or her by the division. The faculty member need not reside in the district and shall be appointed from among not less than three nominations submitted to the Governor by the deans of the approved medical schools of the state.

(c) Each physician and surgeon appointee shall be licensed to practice medicine in California.

(d) Each member shall hold office until the appointment and qualification of his or her successor, or until one year has elapsed since the expiration of the term for which he or she was appointed, whichever first occurs.

(e) Vacancies in the membership of a committee shall be filled by the Governor from nominees submitted in subdivision (b) and

with due regard for the proportional makeup of the committee.

2325. The Governor may remove any member of a committee as provided in Section 2011.

2326. Each member of a committee shall receive per diem and expenses as provided in Section 2016.

2327. Each member of a committee is subject to applicable laws, rules, and regulations as if he or she were a member of the board.

2328. Each medical quality review committee or group thereof shall be staffed by personnel employed by the board pursuant to Section 2020.

2329. The division shall administer the provisions of this article.

2332. Committees shall have the following authority and duties:

(a) To initiate reviews of the quality of medical care provided by physicians and surgeons.

(b) To investigate all matters assigned to it by the division and such other matters within the jurisdiction of a committee which it finds warrant action.

(c) To investigate complaints from the public, from other licensees, from health care facilities, or from a division of the board that a physician and surgeon may be guilty of unprofessional conduct.

(d) To investigate the circumstances of practice of any physician and surgeon where there have been any judgments, settlements, or arbitration awards requiring the physician and surgeon or his or her professional liability insurer to pay an amount in damages in excess of a cumulative total of thirty thousand dollars (\$30,000) with respect to any claim that injury or damage was proximately caused by the physician's and surgeon's error, negligence, or omission.

(e) To investigate the nature and causes of injuries from cases which shall be reported by the division of an unusually high number of claims for compensation filed against a physician and surgeon.

(f) To inspect general and special hospitals pursuant to Section 2226.

(g) Investigations and hearings held pursuant to this section shall be in accordance with the provisions of Section 2231.

(h) Where grounds for disciplinary action are found by the Attorney General to exist after the completion of investigations under this section, to hold a hearing pursuant to Section 2230. Hearings shall be conducted by the division, a committee or a panel of a committee, or an administrative law judge sitting alone.

(i) At the completion of a hearing, upon a finding of unprofessional conduct, to take appropriate disciplinary or remedial action pursuant to Sections 2227, 2228, 2229, and 2335.

(j) To convene a panel to hear a petition for reinstatement or modification of penalty as assigned by the division pursuant to Section 2307.

(k) To seek injunctions or restraining orders pursuant to Section 2311.

(l) A committee or a panel thereof which conducts an

investigation shall not be the committee or panel which hears any disciplinary matters resulting from such investigation.

**2334.** The following provisions shall apply to all investigations for unprofessional conduct under this article:

(a) All investigations shall be commenced within 15 days and completed within 90 days with a 30-day progress report submitted to the committee. A report shall be made to a complainant, if any, within 90 days of the receipt of the complaint.

(b) Once an investigation has been completed and grounds for disciplinary action are found by the Attorney General to exist, the Attorney General shall file an accusation within 30 days. A hearing shall be held within 45 days after the last day upon which discovery can be completed.

(c) Failure to comply with the time limitations of this section or Section 2335 shall not invalidate any proceedings of the division or a medical quality review committee, nor shall it affect the jurisdiction of the division or such committee to render a decision, but such a failure shall be reported by the division to the Speaker of the Assembly and the President pro Tempore of the Senate in the report to the Legislature provided for in Section 2313.

**2335.** (a) Within 30 days of the conclusion of any hearing which is conducted by a committee or panel thereof, that committee or panel shall render its decision in the matter.

(b) A decision by a committee or a panel thereof calling for the discipline of a physician and surgeon, or restricting or limiting the extent, scope, or type of practice of the physician and surgeon for a period of one year or less, or the suspension from practice of a physician and surgeon for 30 days or less, shall be a final decision, unless the committee or panel orders reconsideration pursuant to Section 2336. A final decision of a committee or panel shall constitute the decision of the division in the matter.

(c) A decision by a committee or a panel thereof calling for the discipline of a physician and surgeon, or restricting or limiting the extent, scope, or type of practice of the physician and surgeon for a period exceeding one year, the suspension from practice of a physician and surgeon in excess of 30 days, or the revocation of the physician's and surgeon's certificate, shall constitute a proposed decision to the division. The proposed decision shall be subject to the same procedure as a proposed decision of an administrative law judge under subdivisions (b) and (c) of Section 11517 of the Government Code. No such penalties shall be carried out except upon the order of the division. The division shall act upon such proposed decisions within 90 days of receiving such decisions from a committee or panel.

(d) The division shall review all decisions of committees and panels. The division shall comment on the appropriateness of such decisions and shall promulgate uniform disciplinary guidelines for particular violations.

**2336.** Any decision of the division, committee, or panel within the

authority granted it by this article is final, except that the division, committee, or panel may, in accordance with the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code), order reconsideration of all or part of a decision.

#### Article 14. Diversion Evaluation Committees

2340. It is the intent of the Legislature that the Board of Medical Quality Assurance seek ways and means to identify and rehabilitate physicians and surgeons with impairment due to abuse of dangerous drugs or alcohol, or due to mental illness or physical illness, affecting competency so that physicians and surgeons so afflicted may be treated and returned to the practice of medicine in a manner which will not endanger the public health and safety.

2341. As used in this article:

(a) "Division" means the Division of Medical Quality of the Board of Medical Quality Assurance.

(b) "Committee" means a diversion evaluation committee created by this article.

2342. One or more diversion evaluation committees is hereby created in the state to be established by the division. Each committee shall be composed of five persons appointed by the division.

Each committee shall have the following composition:

(a) Three physicians and surgeons licensed under this chapter. The division in making its appointments shall give consideration to recommendations of medical associations and local medical societies and shall consider, among others, where appropriate, the appointment of physicians and surgeons who have recovered from impairment or who specialize in psychiatry or who have knowledge and expertise in the management of impairment.

(b) One member nominated by medical quality review committees who is not a member of a medical quality review committee.

(c) One member not licensed as a physician and surgeon.

Each person appointed to a committee shall have experience or knowledge in the evaluation or management of persons who are impaired due to alcohol or drug abuse, or due to physical or mental illness.

It shall require the affirmative vote of four members of the division to appoint a person to a committee. Each appointment shall be at the pleasure of the division for a term not to exceed four years. In its discretion the division may stagger the terms of the initial members appointed.

2343. Each member of a committee shall receive per diem and expenses as provided in Section 2011.

2344. Three members of a committee shall constitute a quorum for the transaction of business at any meeting. Any action requires the majority vote of the committee.

2345. Each committee shall elect from its membership a chairperson and a vice chairperson.

2346. The division shall administer the provisions of this article.

2350. (a) The division shall establish criteria for the acceptance, denial, or termination of physicians and surgeons in a diversion program. Only those physicians and surgeons who have voluntarily requested diversion treatment and supervision by a committee shall participate in a program.

(b) The division shall establish criteria for the selection of administrative physicians and surgeons who shall examine physicians and surgeons requesting diversion under a program. Any reports made under this article by the administrative physician and surgeon shall constitute an exception to Section 2263 and to Sections 994 and 995 of the Evidence Code.

(c) The division shall require biannual reports from each committee which include, but are not limited to, information concerning the number of cases accepted, denied, or terminated with compliance or noncompliance and a cost analysis of the program. The Bureau of Medical Statistics may assist the committees in the preparation of such reports.

2351. The committee shall inform each physician and surgeon who requests participation in a program of the procedures followed in the program, of the rights and responsibilities of the physician and surgeon in the program, and of the possible results of noncompliance with the program.

2352. Each committee shall have the following duties and responsibilities:

(a) To evaluate those physicians and surgeons who request participation in the program according to the guidelines prescribed by the division and to consider the recommendation of the medical consultant on the admission of the physician and surgeon to the diversion program.

(b) To review and designate those treatment facilities to which physicians and surgeons in a diversion program may be referred.

(c) To receive and review information concerning a physician and surgeon participating in the program.

(d) To call meetings as necessary to consider the requests of physicians and surgeons to participate in a diversion program, and to consider reports regarding physicians and surgeons participating in a program from an administrative physician and surgeon, from a physician and surgeon, or from others.

(e) To consider in the case of each physician and surgeon participating in a program whether he or she may with safety continue or resume the practice of medicine.

(f) To set forth in writing for each physician and surgeon participating in a program a treatment program established for each such physician and surgeon with the requirements for supervision and surveillance.

(g) To hold a general meeting at least twice a year, which shall be

open and public, to evaluate the program's progress, to review data as required in reports to the division, to prepare reports to be submitted to the division, and to suggest proposals for changes in the diversion program.

2353. Notwithstanding the provisions of Chapter 1 (commencing with Section 11120) of Part 1 of Division 2 of Title 2 of the Government Code, relating to public meetings, a committee may convene in executive session to consider reports pertaining to any physician and surgeon requesting or participating in a diversion program. A committee shall only convene in executive session to the extent that it is necessary to protect the privacy of such a physician and surgeon.

2354. Each physician and surgeon who requests participation in a diversion program shall agree to cooperate with the treatment program designed by a committee. Any failure to comply with the provisions of a treatment program may result in termination of the physician's and surgeon's participation in a program.

2355. (a) After a committee in its discretion has determined that a physician and surgeon has been rehabilitated and the diversion program is completed, the committee shall purge and destroy all records pertaining to the physician's and surgeon's participation in a diversion program.

(b) All board and committee records and records of proceedings pertaining to the treatment of a physician and surgeon in a program shall be kept confidential and are not subject to discovery or subpoena.

2356. The board shall provide for the representation of any persons making reports to a committee or the board under this article in any action for defamation in accordance with Section 2317.

#### Article 16. Medical Statistics

2380. There is created within the board a Bureau of Medical Statistics. The purpose of the bureau is to provide the board and its divisions with statistical information necessary to carry out their functions of licensing, medical education, medical quality, and enforcement.

2381. As used in this article, "bureau" means the Bureau of Medical Statistics.

2382. The bureau shall conduct such research, including the gathering of appropriate statistics, as deemed desirable by the board and its divisions and related to their functions. The bureau shall have access to all medical and other information pertaining to the provision of health care services not privileged under law. In the gathering of such information, the bureau shall initially draw upon existing sources of pooled health data and may purchase such information or contract for the development of such data. In the event that such sources are deemed inadequate by the board or a division, the bureau may require any state agency or health care

provider to transmit to the bureau statistical information not privileged under law. No provider shall be required to incur unreasonable expenses in the provision of such information. The bureau shall not gather or maintain statistical or other information that identifies individual patients, physicians and surgeons, or other health care providers, except for reports required by Article 11 (commencing with Section 800) of Chapter 1 or as is required to carry out any function of the board or its divisions which is designated by this chapter.

2383. The bureau may prepare and issue the information questionnaire and report therefrom as required in Chapter 1.6 (commencing with Section 920).

2386. The bureau shall be the repository for all reports filed with the board pursuant to Article 11 (commencing with Section 800) of Chapter 2, and pursuant to Sections 2231 and 2334.

2387. Each insurer shall, within 30 days of such termination, furnish the bureau with the names of all health care providers in this state whose malpractice liability insurance has been terminated. Any health facility that limits or denies a health care provider's privileges shall report such information to the bureau pursuant to Section 805.

2388. The bureau, upon the receipt of information submitted pursuant to Section 2387, shall immediately transmit a copy of such information to the named health care provider, to the Division of Medical Quality, and to the appropriate medical quality review committee.

2392. The board shall report at least annually to the Legislature on the data collected by the bureau pursuant to this article. Such reports and any data not privileged or confidential under state law shall also be available to the public.

#### Article 17. Exemptions from Liability

2395. No licensee, who in good faith renders emergency care at the scene of an 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 an 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 (Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code).

Acts or omissions exempted 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 section shall not apply in the event of a willful act or omission.

2396. No licensee, who in good faith upon the request of another

person so licensed, renders emergency medical care to a person for medical complication arising from prior care by another person so licensed, shall be liable for any civil damages as a result of any acts or omissions by such licensed person in rendering such emergency medical care.

2397. (a) A licensee shall not be liable for civil damages for injury or death caused in an emergency situation occurring in the licensee's office or in a hospital on account of a failure to inform a patient of the possible consequences of a medical procedure where the failure to inform is caused by any of the following:

(1) The patient was unconscious.

(2) The medical procedure was undertaken without the consent of the patient because the licensee reasonably believed that a medical procedure should be undertaken immediately and that there was insufficient time to fully inform the patient.

(3) A medical procedure was performed on a person legally incapable of giving consent, and the licensee reasonably believed that a medical procedure should be undertaken immediately and that there was insufficient time to obtain the informed consent of a person authorized to give such consent for the patient.

(b) This section is applicable only to actions for damages for injuries or death arising because of a licensee's failure to inform, and not to actions for damages arising because of a licensee's negligence in rendering or failing to render treatment.

(c) As used in this section:

(1) "Hospital" means a licensed general acute care hospital as defined in subdivision (a) of Section 1250 of the Health and Safety Code.

(2) "Emergency situation occurring in the licensee's office" means a situation occurring in an office, other than a hospital, used by a licensee for the examination or treatment of patients, requiring immediate services for alleviation of severe pain, or immediate diagnosis and treatment of unforeseeable medical conditions, which, if not immediately diagnosed and treated, would lead to serious disability or death.

(3) "Emergency situation occurring in a hospital" means a situation occurring in a hospital, whether or not it occurs in an emergency room, requiring immediate services for alleviation of severe pain, or immediate diagnosis and treatment of unforeseeable medical conditions, which, if not immediately diagnosed and treated, would lead to serious disability or death.

(d) Nothing in this article shall be construed to authorize practice by a podiatrist beyond that set forth in Section 2473.

2398. No licensee, 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 such 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 section shall not apply to acts or omissions constituting gross negligence.

### Article 18. Corporations

2400. Corporations and other artificial legal entities shall have no professional rights, privileges, or powers. However, the Division of Licensing may in its discretion, after such investigation and review of such documentary evidence as it may require, and under regulations adopted by it, grant approval of the employment of licensees on a salary basis by licensed charitable institutions, foundations, or clinics, if no charge for professional services rendered patients is made by any such institution, foundation, or clinic.

2401. Notwithstanding Section 2400, a clinic operated primarily for the purpose of medical education by a public or private nonprofit university medical school, which is approved by the Division of Licensing or the Board of Osteopathic Examiners, may charge for professional services rendered to teaching patients by licensees who hold academic appointments on the faculty of such university, if such charges are approved by the physician in whose name the charges are made.

2402. The provisions of Section 2400 do not apply to a medical or podiatry corporation practicing pursuant to the Moscone-Knox Professional Corporation Act (Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code) and this article, when such corporation is in compliance with the requirements of these statutes and all other statutes and regulations now or hereafter enacted or adopted pertaining to such corporations and the conduct of their affairs.

2415. (a) Any physician and surgeon or any podiatrist, as the case may be, who as a sole proprietor, or in a partnership, group, or professional corporation, desires to practice under any name that would otherwise be a violation of Section 2285 may practice under such name if such proprietor, partnership, group, or corporation obtains and maintains in current status a fictitious-name permit issued by the Division of Licensing under the provisions of this section.

(b) The division shall issue a fictitious-name permit authorizing the holder thereof to use the name specified in the permit in connection with his, her, or its practice if the division finds to its satisfaction that:

(1) The applicant or applicants or shareholders of the professional corporation hold valid and current licenses and no charges of unprofessional conduct are pending against any such licensed person.

(2) The place, or portion thereof, in which the applicant or applicants practice, is owned or leased by the same.

(3) The professional practice of the applicant or applicants is

wholly owned and entirely controlled by the same.

(4) The name under which the applicant or applicants propose to practice contains one of the following designations: "medical group," "medical clinic," "podiatry group," "podiatrists' group," "podiatry clinic," or "podiatrists' clinic."

(c) An applicant or applicants working for a community clinic which is licensed pursuant to Chapter 1 (commencing with Section 1200) of Division 2 of the Health and Safety Code, which contracts with or employs professional practitioners, shall not be required to comply with the provisions of paragraph (2), (3), or (4) of subdivision (6). However, the name of the community clinic shall comply with the regulations of the State Department of Health Services and shall not contain the name or names of any practitioners working for the community clinic.

(d) Fictitious-name permits issued by the division shall be subject to the provisions of Article 19 (commencing with Section 2420) pertaining to renewal of licenses.

(e) The division may revoke or suspend any permit issued if it finds that the holder or holders of the permit are not in compliance with the provisions of this section or any regulations adopted pursuant to this section. A proceeding to revoke or suspend a fictitious-name permit shall be conducted in accordance with Section 2230.

(f) The division may also proceed to revoke the fictitious-name permit of a licensee whose certificate has been revoked, but no proceeding may be commenced unless and until the charges of unprofessional conduct against the licensee have resulted in revocation of the license.

(g) The division may delegate to the executive director, or to another official of the board, its authority to review and approve applications for fictitious-name permits and to issue such permits.

2416. Physicians and surgeons and podiatrists may conduct their professional practices in a partnership or group of physicians and surgeons or a partnership or group of podiatrists, respectively.

#### Article 19. Renewal of Licenses

2420. The provisions of this article apply to, determine the expiration of, and govern the renewal of, each of the following certificates, licenses, registrations, and permits issued by or under the Board of Medical Quality Assurance: physician's and surgeon's certificates, certificates to practice podiatric medicine, physical therapy licenses and approvals, registrations of dispensing opticians, certificates of drugless practitioners, certificates to practice midwifery, and fictitious-name permits.

2421. As used in this article, the terms:

- (a) "License" includes "certificate," "permit," and "registration."
- (b) "Licensee" includes the holder of a license.
- (c) "Licensing authority" means the appropriate division or

examining committee, under the board, which has jurisdiction over a particular licensee.

**2422.** All licenses expire and become invalid at 12 midnight on the last day of February of each even-numbered year if not renewed.

To renew an unexpired license, a licensee shall, on or before the date it would otherwise expire, apply for renewal on a form prescribed by the licensing authority and pay the prescribed renewal fee.

**2423.** Notwithstanding Section 2422, all physician's and surgeon's certificates, certificates to practice podiatric medicine, certificates of drugless practitioners, and certificates to practice midwifery shall expire at 12 midnight on the last day of the birth month of the licensee during the second year of a two-year term if not renewed.

The Division of Licensing shall establish by regulation procedures for the administration of a birth date renewal program, including, but not limited to, the establishment of a system of staggered license expiration dates such that a relatively equal number of licenses expire monthly.

To renew an unexpired license, the licensee shall, on or before the dates on which it would otherwise expire, apply for renewal on a form prescribed by the licensing authority and pay the prescribed renewal fee.

**2424.** (a) The Division of Licensing or Allied Health Professions, as the case may be, shall notify in writing by certified mail, return receipt requested, any physician and surgeon or any podiatrist who does not renew his or her license within 60 days from its date of expiration.

(b) Notwithstanding Section 163.5, any such licensee who does not renew his or her expired license within 90 days of its date of expiration shall pay all the following fees:

- (1) The biennial renewal fee in effect at the time of renewal.
- (2) A penalty fee equal to 50 percent of the biennial renewal fee.
- (3) The delinquency fee required by Section 2435.

(c) Notwithstanding any other provision of law, the renewal of any expired physician's and surgeon's or podiatrist's license within six months from its date of expiration shall be retroactive to the date of expiration of that license. The appropriate division, for good cause, may waive the 50 percent penalty fee and may extend retroactivity up to two years from the expiration date of any such license.

**2427.** Except as provided in Section 2429, a license which has expired may be renewed at any time within five years after its expiration on filing an application for renewal on a form prescribed by the licensing authority and payment of all accrued renewal fees and any other fees required by Section 2424. If the license is not renewed within 30 days after its expiration, the licensee, as a condition precedent to renewal, shall also pay the prescribed delinquency fee, if any. Except as provided in Section 2424, renewal under this section shall be effective on the date on which the renewal application is filed, on the date on which the renewal fee or accrued

renewal fees are paid, or on the date on which the delinquency fee or the delinquency fee and penalty fee, if any, are paid, whichever last occurs. If so renewed, the license shall continue in effect through the expiration date set forth in Section 2422 or 2423 which next occurs after the effective date of the renewal, when it shall expire and become invalid if it is not again renewed.

2428. A person who fails to renew his or her license within five years after its expiration may not renew it, and it may not be reissued, reinstated, or restored thereafter, but such person may apply for and obtain a new license if he or she:

(a) Has not committed any acts or crimes constituting grounds for denial of licensure under Division 1.5 (commencing with Section 475).

(b) Takes and passes the examination, if any, which would be required of him or her if application for licensure was being made for the first time, or otherwise establishes to the satisfaction of the licensing authority which passes on the qualifications of applicants for such license that, with due regard for the public interest, he or she is qualified to practice the profession or activity for which the applicant was originally licensed.

(c) Pays all of the fees that would be required if application for licensure was being made for the first time.

The licensing authority may provide for the waiver or refund of all or any part of an examination fee in those cases in which a license is issued without an examination pursuant to this section.

Nothing in this section shall be construed to authorize the issuance of a license for a professional activity or system or mode of healing for which licenses are no longer issued.

2429. (a) A license which is suspended for unprofessional conduct is subject to expiration and shall be renewed as provided in this article, but such renewal does not entitle the licensee, while the license remains suspended, and until it is reinstated, to engage in the licensed activity, or in any other activity or conduct in violation of the order or judgment by which the license was suspended.

(b) A license which is revoked for unprofessional conduct is subject to expiration as provided in this article, but it shall not be renewed. If it is reinstated by the licensing authority after its expiration, the licensee, as a condition precedent to reinstatement or restoration of licensure, shall pay a reinstatement fee which is an amount equal to the current renewal fee, plus the delinquency fee, if any.

2432. Upon filing an application therefor, containing such information as the licensing authority may require and accompanied by the required duplicate certificate fee, if any, a duplicate certificate may be issued to any person so licensed under the applicable provisions of law where the same certificate applied for has been previously issued or, where there has been a change in name, another certificate in lieu of one previously issued.

2433. Upon filing an application therefor, containing such

information as the licensing authority may require and accompanied by the required endorsement fee, if any, the licensure or credentials of the person so licensed may be endorsed or certified.

## Article 20. Revenue

2435. The following fees apply to physician's and surgeon's certificates, certificates to practice podiatric medicine, certificates of drugless practitioners and certificates to practice midwifery:

(a) Each applicant for a certificate by written examination, unless otherwise provided by this chapter, shall pay an application fee fixed by the board at an amount not to exceed one hundred dollars (\$100) nor less than fifteen dollars (\$15). If the applicant's credentials are insufficient or if the applicant does not desire to take the examination, the sum of ten dollars (\$10) shall be retained and the remainder of the fee is returnable to the applicant.

(b) Each applicant for a certificate based upon a national board diplomate certificate, and each applicant for a certificate based upon reciprocity, shall pay an application fee of ten dollars (\$10) at the time the application is filed. If the applicant qualifies for a certificate, he or she shall pay a fee which shall be fixed by the board at an amount not to exceed one hundred dollars (\$100) nor less than five dollars (\$5) for the issuance of the certificate.

(c) Each applicant for a certificate based upon a commission as a medical officer or as a public health service physician and surgeon shall pay an application fee of ten dollars (\$10) at the time the application is filed. If the applicant qualifies for a certificate, he or she shall pay a fee which shall be fixed by the board at an amount not to exceed forty dollars (\$40) nor less than five dollars (\$5) for the issuance of the certificate.

(d) Each applicant who qualifies for a certificate, as a condition precedent to its issuance, in addition to other fees required herein, shall pay an initial license fee, if any. The initial license fee shall be fixed by the board until January 1, 1982, at a sum not in excess of two hundred dollars (\$200), except that if the license will expire less than one year after its issuance, then the initial license fee is an amount equal to 50 percent of the initial license fee fixed by the board. Any licensee enrolled in an approved residency program shall be required to pay only 50 percent of the initial license fee in effect. The board may waive or refund the initial license fee where the license will expire within 45 days after it is issued.

(e) The biennial renewal fee shall be fixed by the board at an amount not to exceed two hundred dollars (\$200) until January 1, 1982. Any licensee enrolled in an approved residency program shall be required to pay only 50 percent of the biennial renewal fee at the time of his or her first renewal.

(f) The delinquency fee is twenty-five dollars (\$25) until January 1, 1982.

(g) The duplicate certificate fee is two dollars (\$2).

(h) The endorsement fee is five dollars (\$5).

2436. The fees in this article fixed by the board shall be set forth as regulations duly adopted by the Division of Licensing or the Division of Allied Health Professions, as the case may be.

2439. Every licensee is exempt from the payment of the renewal fee provided such licensee has practiced medicine or podiatry for 20 years or more in this state, 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 calendar 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.

2440. (a) Every licensee is exempt from the payment of the renewal fee while engaged in full-time training or active service in the Army, Navy, Air Force, or Marines, or in the United States Public Health Service.

(b) Every person exempted from the payment of the renewal fee by this section shall not engage in any private practice and shall become liable for payment of such fee for the current renewal period upon his or her discharge from full-time active service and shall have a period of 60 days after becoming liable within which to pay the renewal fee before the delinquency fee is required. Any person who is discharged from active service within 60 days of the end of a renewal period is exempt from the payment of the renewal fee for that period.

(c) The time spent in full-time active service or training shall not be included in the computation of the five-year period for renewal and reinstatement of licensure provided in Sections 2425 and 2426.

2443. The following fees apply to fictitious name permits issued under Section 2415:

(a) The initial permit fee is an amount equal to the renewal fee in effect at the beginning of the current renewal cycle. If the permit will expire less than one year after its issuance, then the initial permit fee is an amount equal to 50 percent of the fee in effect at the beginning of the current renewal cycle.

(b) The biennial renewal fee shall be fixed by the Division of Licensing at an amount not to exceed twenty dollars (\$20) nor less than two dollars (\$2).

(c) The delinquency fee is ten dollars (\$10).

2445. All moneys paid to and received by the board shall be paid into the State Treasury and shall be credited to the Contingent Fund of the Board of Medical Quality Assurance. Such moneys shall be reported at the beginning of each month, for the month preceding, to the State Controller.

The contingent fund shall be for the use of the board and from it shall be paid all salaries and all other expenses necessarily incurred in carrying into effect the provisions of this chapter.

If there is any surplus in these receipts after the board's salaries and

expenses are paid, 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.

2446. Unless otherwise expressly provided in this chapter, all fines imposed or forfeitures of bail collected by any court in connection with any violation of the provisions of this chapter shall, as soon as practicable after receipt thereof, be deposited with the county treasurer of the county in which such court is situated.

Amounts so deposited shall be paid at least once a month as follows:

(a) Seventy-five percent to the State Treasurer by warrant of the county auditor drawn upon the requisition of the clerk or judge of the court for deposit as provided in Section 2445.

(b) Twenty-five percent to the county where the case is pending.

2447. The board shall refund any fees, fines, or forfeitures in accordance with the provisions of Section 158. The board may expend from its contingent fund whatever sums may be necessary to carry out the provisions of this section.

The State Treasurer and all other officials having custody of the funds of the board shall upon request or direction of the board pay out the refunds or approve such payments from the contingent fund.

2448. Notwithstanding the possession by a licensee of a renewal receipt or other acknowledgement of renewal of licensure, a license issued and renewed may, at any time, be suspended, revoked, or forfeited as provided in this chapter without refund of any fees.

#### Article 21. Provisions Applicable to Osteopathic Physicians and Surgeons

2450. There is a Board of Osteopathic Examiners of the State of California, established by the Osteopathic Act, which enforces the provisions of this chapter relating to persons holding or applying for physician's and surgeon's certificates issued by the Board of Osteopathic Examiners under the Osteopathic Act.

Persons who elect to practice using the term of suffix "M.D.," as provided in Section 2275, shall not be subject to the provisions of this article, and the Board of Medical Quality Assurance shall enforce the provisions of this chapter relating to such persons who made such election.

2451. The words "Board of Medical Quality Assurance," the term "board," or any reference to a division of the Board of Medical Quality Assurance as used in this chapter shall be deemed to mean the Board of Osteopathic Examiners, where that board exercises the functions granted to it by the Osteopathic Act.

2452. The provisions of this chapter apply to the Board of Osteopathic Examiners so far as consistent with the Osteopathic Act. Unless otherwise provided, the provisions of this article are administered by the board.

2453. (a) It is the policy of this state that holders of M.D. degrees and D.O. degrees shall be accorded equal professional status and

privileges as licensed physicians and surgeons.

(b) Notwithstanding any other provision of law, no health facility subject to licensure under Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code, and no agency of the state or of any city, county, city and county, district, or other political subdivision of the state shall discriminate with respect to employment, staff privileges, or the provision of professional services against a licensed physician and surgeon on the basis of whether the physician and surgeon holds an M.D. or D.O. degree. However, this subdivision shall not prohibit a school of allopathic medicine or a school of osteopathic medicine from employing a physician and surgeon as an instructor on the basis of whether the physician and surgeon holds an M.D. or D.O. degree, where the subject matter to be taught specifically requires allopathic or osteopathic training and experience.

(c) Any violation of the provisions of subdivision (b) may be enjoined in an action brought in the name of the people of the State of California by the district attorney of the county in which the violation occurs, upon receipt of a complaint by an aggrieved physician and surgeon.

2455. The amount of fees and refunds is that fixed by the following schedule for any certificate issued by the Board of Osteopathic Examiners. All other fees and refunds for any certificate issued by the Board of Osteopathic Examiners and which are not prescribed in this schedule, are prescribed in Sections 2435 and 2443.

(a) The fee for each applicant for a certificate, unless otherwise provided, shall be set by the board on or before November 1st of each year for the ensuing calendar year at such sum as the board determines necessary to defray the expenses of administering the provisions of this chapter, under the Osteopathic Act, relating to the issuance of certificates to such applicants, which sum, however, shall, until December 31, 1982, not exceed two hundred dollars (\$200) nor be less than twenty-five dollars (\$25). In addition, an annual tax and registration fee shall be set by the board on or before November 1st of each year which shall not exceed two hundred dollars (\$200) nor be less than ten dollars (\$10) until December 31, 1982. If the applicant's credentials are insufficient, or if he or she does not desire to take the examination, or if the applicant fails to receive a certificate, the sum of ten dollars (\$10) shall be retained and the remainder of the fee is returnable on application.

(b) Each applicant for a reciprocity certificate shall pay an application fee in the sum of ten dollars (\$10) at the time his or her application is filed. If the applicant qualifies for a certificate, he or she shall be notified and shall pay a fee which shall be fixed annually by the board, until December 31, 1982, at a sum not in excess of two hundred dollars (\$200) nor less than twenty-five dollars (\$25) for the issuance of a certificate.

(c) The fee for failure to pay the annual tax and registration fee is fifty dollars (\$50).

(d) The board shall set an annual tax registration fee in an amount less than that levied pursuant to subdivision (a) which shall be paid by any applicant who indicates to the board in writing that he or she does not intend to practice under the Osteopathic Act during the renewal period covered by such annual tax and registration fee. The annual tax and registration fee levied pursuant to this subdivision shall be in effect until December 31, 1982, and after December 31, 1982, shall not be levied.

2456. (a) Each person holding a certificate issued by the Board of Osteopathic Examiners residing in or out of California shall pay to the secretary-treasurer of the board an annual tax and registration fee on or before the first day of January of each year.

(b) Fictitious name permits issued by the Board of Osteopathic Examiners as provided in Section 2415 shall expire on December 31st of each year, and may be renewed by the board on payment of a fee equal to the annual tax and registration fee in Section 2455.

2457. The failure of any person holding a certificate issued by the Board of Osteopathic Examiners to pay the annual tax and registration fee during the time his or her certificate remains in force, shall automatically work a forfeiture of his or her certificate after a period of 60 days from the first day of January of each year.

The certificate shall not be restored except upon written application and the payment to the Board of Osteopathic Examiners of the fee provided by this article. No examination shall be required for the reissuance of a certificate that was forfeited under the provisions of this section.

2458. When the prosecution for a violation of the provisions of this chapter is initiated by the Board of Osteopathic Examiners, 75 percent of all fines and forfeitures of bail shall be paid upon the collection by the proper officer of the court to the board to be deposited by it to the credit of the contingent fund of the Board of Osteopathic Examiners.

The payment to the board shall be made without placing the fine or forfeiture of bail in any special, contingent, or general fund in any city, county, or city and county.

2459. The Board of Osteopathic Examiners shall not issue any drugless practitioner's certificates under any of the provisions of this chapter or any other law.

All persons holding drugless practitioners' certificates may continue to practice under the authorization of their certificates and may renew them, subject to the provisions of this chapter.

## Article 22. Podiatric Medicine

2460. There is created within the jurisdiction of the Division of Allied Health Professions of the Board of Medical Quality Assurance, a Podiatry Examining Committee.

2461. As used in this article:

(a) "Board" means the Division of Allied Health Professions of the

Board of Medical Quality Assurance.

(b) "Committee" means the Podiatry Examining Committee.

(c) "Podiatric licensing authority" refers to any officer, board, commission, committee, or department of another state upon whose certificate a reciprocity certificate may be issued.

2462. The committee shall consist of six members appointed by the Governor, two of whom shall be public members. Not more than one member of the committee shall be a full-time faculty member of a college or school of podiatric medicine. The Governor shall give consideration to recommendations of the board after the board has consulted with the committee, except with regard to the public members.

2463. Each member of the committee, except the public members, shall be appointed from persons having all of the following qualifications:

(a) Be a citizen of this state for at least five years next preceding his or her appointment.

(b) Be a graduate of a recognized school or college of podiatric medicine.

(c) Have a valid certificate to practice podiatric medicine in this state.

(d) Have engaged in the practice of podiatric medicine in this state for at least five years next preceding his or her appointment.

2464. The public members shall be appointed from persons having all of the following qualifications:

(a) Be a citizen of this state for at least five years next preceding his or her appointment.

(b) Shall not be an officer or faculty member of any college, school, or other institution engaged in podiatric medical instruction.

(c) Shall not be a licentiate of the committee or of any board under this division or of any board created by an initiative act under this division.

2465. No person who directly or indirectly owns any interest in any college, school, or other institution engaged in podiatric medical instruction shall be appointed to the committee or shall any incumbent member of the committee have or acquire any interest, direct or indirect, in any such college, school, or institution.

2466. All members of the committee shall be appointed for terms of four years. Vacancies shall immediately be filled by the Governor for the unexpired portion of the terms in which they occur. In filling vacancies, the Governor shall consider recommendations as provided in Section 2462. No person shall serve as a member of the committee for more than two consecutive terms.

2467. (a) The committee shall hold at least one regular meeting annually in the County of Sacramento, the County of Los Angeles, and the City and County of San Francisco or the environs of any such county or city and county. The committee may otherwise convene from time to time as it deems necessary. Other meetings of the committee may be held at such places as the committee may

designate.

(b) Four members of the committee constitute a quorum for the transaction of business at any meeting.

(c) It shall require the affirmative vote of a majority of those members present at a meeting, such members constituting at least a quorum, to pass any motion, resolution, or measure.

(d) The committee shall annually elect one of its members to act as a chairperson and a member to act as vice chairperson who shall hold their respective positions at the pleasure of the committee. The chairperson may call meetings of any duly appointed subcommittee at a specified time and place.

2468. Notice of each meeting of the committee shall be given twice a week for two weeks next preceding the meeting in one daily newspaper published in the Cities of Sacramento, San Francisco, and Los Angeles. Subcommittee meetings need not be advertised.

2469. Each member of the committee shall receive per diem and expenses as provided in Section 2016.

2470. The committee may recommend to the board the adoption, amendment, or repeal of rules and regulations relating to the practice of podiatric medicine.

2472. The certificate to practice podiatric medicine authorizes the holder to practice podiatric medicine.

As used in this chapter, "podiatric medicine" means the diagnosis, medical, surgical, mechanical, manipulative, and electrical treatment of the human foot, including the nonsurgical treatment of the muscles and tendons of the leg governing the functions of the foot.

No podiatrist shall do any amputation or administer an anesthetic other than local.

2474. Any person who uses in any sign or in any advertisement or otherwise, the word or words "podiatrist," "foot specialist," or any other term or terms or any letters indicating or implying that he or she is a podiatrist, or that he or she practices podiatric medicine, or holds himself out as practicing podiatric medicine or foot correction as defined in Section 2473, without having at the time of so doing a valid, unrevoked, and unsuspended certificate as provided for in this chapter, is guilty of a misdemeanor.

2475. Unless otherwise provided by law, no postgraduate trainee, intern, resident postdoctoral fellow, or instructor may engage in the practice of podiatric medicine, or receive compensation therefor, or offer to engage in the practice of podiatric medicine unless he or she holds a valid, unrevoked, and unsuspended certificate to practice podiatric medicine issued by the board. However, a graduate of an approved college or school of podiatric medicine upon whom the degree doctor of podiatric medicine, doctor of podiatry, or doctor of surgical chiropody has been conferred, who is registered with the board, and who is enrolled in a postgraduate training program approved by the board, may engage in the practice of podiatric medicine whenever and wherever required as a part of such

program under the following conditions:

(a) A graduate in an approved internship, residency, or fellowship program may engage in the practice of medicine for a period not to exceed two years wherever and whenever required as a part of the training program, and may receive compensation for such practice. Such graduate shall qualify for, take, and pass the next succeeding written examination for licensure given by the committee, or shall qualify for and receive a certificate to practice podiatric medicine by one of the other methods specified in this article. If such a graduate shall fail to receive a license to practice podiatric medicine under this chapter within two years from the commencement of the postgraduate training, all privileges and exemptions under this section shall automatically cease.

(b) Podiatric hospitals functioning as a part of the teaching program of an approved college or school of podiatric medicine in this state may exchange instructors or resident or assistant resident podiatrists with another approved college or school of podiatric medicine not located in this state, or such hospitals may appoint a graduate of an approved school as such a resident for purposes of postgraduate training. Such instructors and residents may practice and be compensated as provided in subdivision (a), but such practice and compensation shall be for a period not to exceed one year.

2476. Nothing in this chapter shall be construed to prevent a regularly matriculated student undertaking a course of professional instruction in an approved college or school of podiatric medicine from engaging in the practice of medicine whenever and wherever prescribed as part of his or her course of study.

2477. Nothing in this chapter prohibits the manufacture, the recommendation, or the sale of either corrective shoes or appliances for the human feet.

2479. The board shall issue a certificate to practice podiatric medicine to each applicant who meets the requirements of this chapter. Every applicant for a certificate to practice podiatric medicine shall comply with the provisions of Article 4 (commencing with Section 2080) which are not specifically applicable to applicants for a physician's and surgeon's certificate, in addition to the provisions of this article.

2480. The committee shall have full authority to investigate and to evaluate each applicant applying for a certificate to practice podiatric medicine and to recommend to the board for final determination the admission of the applicant to the examination and the issuance of a certificate in accordance with the provisions and requirements of this chapter.

2481. Each applicant who commenced professional instruction in podiatric medicine after September 1, 1959, shall present an official transcript or other official evidence to the committee that he or she has completed two years of preprofessional postsecondary education, or its equivalent, including the subjects of chemistry, biology or other biological science, and physics or mathematics, before completing

the resident course of professional instruction.

2483. (a) Each applicant for a certificate to practice podiatric medicine shall show by official transcript or other official evidence satisfactory to the committee that he or she has successfully completed a medical curriculum extending over a period of at least four academic years in a college or school of podiatric medicine approved by the board. The total number of hours of all courses shall consist of a minimum of 4,000 hours.

The board by regulation shall adopt standards for determining equivalent training authorized by this section.

(b) The curriculum for all applicants shall provide for adequate instruction in the following:

- Anatomy, including embryology and histology
- Bacteriology
- Biochemistry
- Biomechanics-foot orthopedics
- Dermatology
- Didactic podiatry
- Hygiene
- Immunology
- Neurology
- Orthopedic surgery
- Pathology
- Pharmacology, including materia medica and toxicology
- Physical and laboratory diagnosis
- Physical therapy
- Physiology
- Podiatric medicine
- Podiatric surgery
- Preventive medicine
- Psychology
- Roentgenologic technique and radiation safety
- Shoe therapy
- Syphilology

2486. Notwithstanding any other provision of law, the board may issue a certificate to practice podiatric medicine on the basis of a diplomate certificate issued by the National Board of Podiatry Examiners of the United States if the applicant meets the following requirements:

(a) The application is filed within five years after the date of issuance of the diplomate certificate. If the application is filed later than five years, the applicant takes and passes an oral examination administered by the committee in accordance with Sections 2147 and 2148.

(b) The applicant graduated from an approved school or college of podiatric medicine after June 30, 1958.

(c) The standards of the national board on the date the diplomate certificate was issued were in no degree or particular less than those required for a certificate to practice podiatric medicine under this

chapter on the same date.

(d) The applicant has committed no acts or crimes constituting grounds for denial of a certificate under Division 1.5 (commencing with Section 475).

2487. (a) The board shall issue a certificate to practice podiatric medicine by reciprocity if the applicant meets the requirements of this chapter. The provisions of Article 7 (commencing with Section 2135) shall apply to applicants for a certificate to practice podiatric medicine by reciprocity, except where such provisions are in conflict with or inconsistent with the provisions of this article. In respect to applicants for a certificate to practice podiatric medicine by reciprocity, any references to the "Division of Licensing" or "division" shall be deemed to apply to the committee.

(b) No person who graduated from a school or college of podiatric medicine before July 1, 1958, shall be eligible for a reciprocity certificate.

2488. Notwithstanding any other provision of law, the board shall issue a certificate to practice podiatric medicine by reciprocity to an applicant if the following requirements are met:

(a) The applicant is licensed as a podiatrist in any other state whose written licensing examination is recognized by the board to be the equivalent in content to that administered in this state.

(b) The applicant has been issued after June 30, 1958, a diplomate certificate by the National Board of Podiatry Examiners of the United States or has passed, after June 30, 1958, a written examination which is recognized by the board to be the equivalent in content to that administered in this state.

(c) The applicant has practiced as a licensed podiatrist for at least four years.

(d) The applicant takes and passes an oral and practical examination to ascertain clinical competence.

(e) The committee determines that no disciplinary action has been taken against the applicant by any podiatric licensing authority and that the applicant has not been the subject of adverse judgments or settlements resulting from the practice of podiatric medicine which the committee determines constitutes evidence of a pattern of negligence or incompetence.

2489. The board or committee shall not reject an application for a certificate to practice podiatric medicine by reciprocity solely on the basis that the podiatric licensing authority issuing the applicant's certificate or license permitted the applicant to take the basic science examination given by the National Board of Medical Examiners or the National Board of Podiatry Examiners, as a part of that state's qualifying examination.

2492. (a) The committee shall examine every applicant for a certificate to practice podiatric medicine at the time and place designated by the committee in its discretion, but at least once a year.

(b) The committee shall perform all examination functions

pertaining to applicants under this article and may participate in uniform examination systems. For that purpose the committee may make such arrangements with organizations furnishing examination material as it may deem desirable.

(c) The committee may appoint qualified persons to give the whole or any portion of any examination as provided in this article, who shall be designated as examination commissioners. The committee may fix the compensation of such persons subject to the provisions of applicable state laws and regulations.

(d) The provisions of Article 9 (commencing with Section 2170) shall apply to examinations administered by the committee except where such provisions are in conflict with or inconsistent with the provisions of this article. In respect to applicants under this article any references to the "Division of Licensing" or "division" shall be deemed to apply to the committee.

2493. (a) Applicants for a certificate to practice podiatric medicine shall pass an examination in the following subjects:

- (1) Anatomy and histology
- (2) Dermatology and syphilis
- (3) Orthopedics and surgery, roentgenologic technique, and radiation safety
- (4) Pathology and bacteriology
- (5) Physiology, chemistry, and hygiene
- (6) Podiatry and therapeutics

(b) Any applicant for a certificate to practice podiatric medicine who obtains a score of 75 percent or more in five subjects shall be reexamined in those subjects only in which he or she failed.

2495. Notwithstanding any other provision of this chapter, the board may delegate to any member of the board or to the committee, its authority to approve applicants for admission to the examination and to approve the issuance of certificates to practice podiatric medicine under this article to applicants who have met the requirements therefor. The board and committee may further delegate to officials of the board the authority to approve the admission of applicants to the examination and to approve the issuance of certificates to practice podiatric medicine to applicants who have met the specific requirements therefor in routine cases where applicants clearly meet the requirements of this chapter.

2496. In order to insure the continuing competence of persons licensed to practice podiatric medicine, the committee shall adopt and administer regulations in accordance with the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code) requiring continuing education of such licensees. The committee shall require such licensees to demonstrate satisfaction of the continuing education requirements at each license renewal.

2497. (a) The committee may order the denial of an application for, or the suspension of, or the revocation of, or the imposition of probationary conditions upon, a certificate to practice podiatric

medicine for any of the causes set forth in Article 12 (commencing with Section 2220) in accordance with Section 2222.

(b) The committee may hear all matters, including but not limited to, any contested case or any petition for reinstatement or modification of probation, or may assign any such matters to an administrative law judge. Such proceedings shall be held in accordance with Section 2230. If a contested case is heard by the committee itself, the administrative law judge who presided at the hearing shall be present during the committee's consideration of the case and shall assist and advise the committee.

(c) After the hearing, the board shall deny an application for, or suspend or revoke, or impose probationary conditions upon, or reinstate, a certificate as ordered by the committee in any decision made after a hearing as provided in subdivision (b).

2498. (a) The committee shall have the responsibility for reviewing the quality of podiatric medical practice carried out by persons licensed to practice podiatric medicine.

(b) Each member of the committee, or any licensed podiatrist appointed by the committee, shall additionally have the authority to inspect, or require reports from, a general or specialized hospital and the podiatric staff thereof, with respect to the podiatric care, services, or facilities provided therein, and may inspect podiatric patient records with respect to such care, services, or facilities. The authority to make inspections and to require reports as provided by this section shall not be delegated by a member of the committee to any person other than a podiatrist and shall be subject to the restrictions against disclosure described in Section 2263.

2499. (a) There is in the State Treasury the Podiatry Fund. Notwithstanding Section 2445, 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 applicants for such a license or registration, shall be transferred to the Podiatry Fund and shall be expended as provided in this section.

### Article 23. Drugless Practitioners

2500. The drugless practitioner's certificate authorizes the holder to treat diseases, injuries, deformities, or other physical or mental conditions without the use of drugs or what are known as medical preparations and without in any manner severing or penetrating any of the tissues of human beings except the severing of the umbilical cord.

2501. Any person who uses in any sign or advertisement the word, term, or suffix "drugless practitioner" or holds himself or herself out directly or indirectly as a drugless practitioner, without having at the time of so doing, a valid unrevoked certificate, as provided in this chapter, is guilty of a misdemeanor.

2502. The classification of drugless practitioner is abolished but all persons holding licenses as drugless practitioners may continue to engage in practice and to renew their licenses as provided in Article 19 (commencing with Section 2420).

2503. The use of drugs, or what are known as medicinal preparations by the holder of a drugless practitioner's certificate, in or upon any human being or the severing or penetrating of the tissues of any human being by the holder of a drugless practitioner's certificate in the treatment of any disease, injury, or deformity, or other physical or mental condition of the human being, except the severing of the umbilical cord, constitutes unprofessional conduct within the meaning of this chapter.

2504. The Division of Allied Health Professions shall take disciplinary action against any drugless practitioner for unprofessional conduct as set forth in this article and Article 12 (commencing with Section 2220), and the division shall have all the powers contained therein.

### Article 24. Midwifery

2505. The certificate to practice midwifery authorizes the holder to attend cases of normal childbirth.

As used in this chapter, the practice of midwifery constitutes the furthering or undertaking by any person to assist a woman in normal childbirth, but it does not include the use of any instrument at any childbirth, except such instrument as is necessary in severing the umbilical cord, nor does it include the assisting of childbirth by any artificial, forcible, or mechanical means, nor the performance of any version, nor the removal of adherent placenta, nor the administering, prescribing, advising, or employing, either before or after any childbirth, of any drug, other than a disinfectant or cathartic.

A midwife is not otherwise authorized to practice medicine by the provisions of this chapter.

2506. The Division of Allied Health Professions shall take disciplinary action against any midwife for unprofessional conduct as

set forth in this article and Article 12 (commencing with Section 2220), and the division shall have all the powers contained therein.

2507. The certificate to practice midwifery may be revoked if due caution and circumspection were not used or proper aseptic and antiseptic precautions were not taken in any case that the midwife may have treated.

2508. The conviction of a violation of any health statute, order, or ordinance, or for the neglect or refusal to comply with the health rules and regulations of any state, county, or municipality constitutes unprofessional conduct.

2509. It is unprofessional conduct for a midwife to engage in the treatment of a complicated vertex presentation in any case of labor in which this condition occurs without calling or attempting to call a person authorized to practice medicine.

2510. It is unprofessional conduct for a midwife to fail to refer to a person authorized to practice medicine, a case which has or develops any of the following conditions during pregnancy:

(a) Contracted pelvis or other deformity that will interfere with labor.

(b) Bleeding from the uterus.

(c) Swelling of the face and hands.

(d) Excessive vomiting.

(e) Persistent headache.

(f) Dimness of vision.

(g) Convulsions.

2511. It is unprofessional conduct for a midwife to fail to call or summon a physician and surgeon if any of the following conditions exist or develop at the beginning of or during labor:

(a) Complicated presentation of a vertex (head).

(b) Convulsions.

(c) Excessive bleeding.

(d) Prolapse of the cord.

(e) A swelling or tumor that obstructs the birth of the child.

(f) Signs of exhaustion or of collapse.

(g) Unduly prolonged labor.

2512. It is unprofessional conduct for a midwife to fail to refer to a person authorized to practice medicine, a case which develops any of the following conditions during the lying-in period:

(a) Convulsions.

(b) Excessive bleeding.

(c) Foul smelling discharge (lochia).

(d) Persistent rise of temperature to 101 degrees Fahrenheit for 24 hours.

(e) Swelling and redness of the breasts.

(f) Severe chill (rigor) with rise of temperature.

(g) Inability to nurse the child.

2513. It is unprofessional conduct for a midwife to fail to refer to a person authorized to practice medicine, a case where the child has or develops any of the following conditions:

- (a) Deformities or malformations or injuries.
- (b) Inability to suckle or nurse.
- (c) Inflammation around or discharge from the navel.
- (d) Swelling and redness of the eyelids with a discharge of pus from the eyes (ophthalmia neonatorum).
- (e) Bleeding from the mouth, navel, or bowels.
- (f) Inability to urinate.

2514. It is unprofessional conduct for a midwife to insert the hand into the vagina or uterus to remove placenta or membranes.

2515. It is unprofessional conduct for a midwife to fail to have the following equipment in each case:

Nail brush; wooden or bone nail cleaner; jar of green or soft castile soap; rubber gloves; tube of sterile vaseline; clinical thermometer; agate or glass douche reservoir; two rounded vaginal douche nozzles; two rectal nozzles, large and small; one soft rubber catheter; blunt scissors for cutting cord; either lysol, carbolic acid, or bichloride of mercury tablets; boric acid powder; 1 percent solution of nitrate of silver; medicine dropper; narrow tape or soft twine for tying cord; and absorbent cotton (preferably in one-quarter-pound packages). No other instruments are to be used by a midwife.

SEC. 2.1. Section 2106 is added to the Business and Professions Code, to read:

2106. (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 Sections 2103 and 2104 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 2104 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 2104. 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 subdivision (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 following: 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. 2.3. Section 2146.8 of the Business and Professions Code, as added by Senate Bill 2057, is amended and renumbered to read:

2071. A medical technical assistant may, in the course of his or her employment and upon the specific authorization of a physician and surgeon, administer medication by oral or injection methods to inmates in a facility of the California Department of Corrections or the California Youth Authority.

A medical technical assistant, as used in this section, means a person certified by the medical director of the California Department of Corrections or the California Youth Authority to perform para-medical tasks required by those agencies.

No medical technical assistant shall administer any schedule II drugs, as enumerated in Section 11055 of the Health and Safety Code, nor shall any medical technical assistant administer any medication by intravenous means except in a life-threatening emergency when

no physician or registered nurse is available.

Any medications administered by a medical technical assistant upon the specific order of a physician shall be logged in a record and shall be countersigned by a physician or a registered nurse who is authorized to countersign by a physician.

The California Department of Corrections and the California Youth Authority shall develop training programs for medical technical assistants which shall consist of not less than 16 hours training in pharmacology and drug administration which training shall be completed on or before April 1, 1981. Any such training programs shall be subject to the review and approval of the Division of Allied Health Professions.

The California Department of Corrections and the California Youth Authority shall report to the Division of Allied Health Professions for review and recommendations, on or before April 1, 1981, and on or before October 1, 1981, on the progress of training programs for medical technical assistants and the records of medications being administered by medical technical assistants.

This section shall be operative until December 31, 1981, and on such date is repealed.

SEC. 2.5. Article 11 (commencing with Section 2200) is added to Chapter 5 of Division 2 of the Business and Professions Code, to read:

#### Article 11. Physician and Surgeon Incentive Pilot Program

2200. California is currently experiencing a geographical and specialty maldistribution of physicians and surgeons. It is the intent of the Legislature to address these problems by assisting licensed physicians and surgeons in establishing medical practices in areas deficient in physician services and primary care specialties.

2201. For the purposes of this article:

(a) "Commission" means the California Health Manpower Policy Commission.

(b) "Division" means the Division of Licensing of the Board of Medical Quality Assurance of California.

(c) "Practice of medicine" or "medical practice" means all activities authorized by a physician's and surgeon's certificate, except activities performed in the course of employment as a public health officer, as a medical school faculty member where teaching time is more than 25 percent of the working day, or as a resident or first-year postgraduate trainee.

(d) "Primary care services" means those medical services involving the specialties of general practice, family practice, general internal medicine, obstetrics, gynecology, and general pediatrics.

2202. The division shall administer the loan program to licensed physicians and surgeons.

2203. There shall be 10 loans available each fiscal year up to June 30, 1986. The amount of a loan shall not exceed ten thousand dollars (\$10,000). The board shall make no more than one loan to any one licensed physician.

2204. No licensed physician and surgeon shall be awarded a loan under this article unless he or she meets the following requirements:

(a) The applicant is licensed as a physician and surgeon by the board at the time the loan is made.

(b) The applicant agrees to establish a medical practice in an area deficient in primary care services within 180 days from the date the loan is made.

(c) The applicant agrees to report a change of his or her medical practice to the division within 30 days from the date of the change.

2205. Applications for loans shall be made to the division, upon forms provided by it, at the times and in the manner prescribed by the regulations adopted by the division.

2206. The division shall award loans on the basis of local need and those areas of the state which are deficient in primary care services, as determined by the commission, to applicants it determines will establish medical practices in such areas.

2208. Loans made pursuant to this article shall be repayable to the Contingent Fund of the Board of Medical Quality Assurance or cancelled under the following conditions:

(a) A licensed physician and surgeon who establishes and maintains a medical practice in an area deficient in primary care services for less than one year shall repay half the total amount of the loan, in addition to accrued interest charges.

(b) A licensed physician and surgeon who establishes and maintains a medical practice in an area deficient in primary care services for less than two years shall repay half the amount of the total loan, in addition to accrued interest charges.

(c) The total amount of the loan and all accrued interest shall be cancelled for a licensed physician and surgeon who establishes and maintains a medical practice in an area deficient in primary care services for more than two years from the date the loan is made.

2209. The liability to repay the loan shall be cancelled upon the death of the borrower, or if the division determines that he or she has become permanently disabled and is unable to engage in substantial gainful activity.

2210. (a) In addition to the principal of the loan, interest shall accrue on the principal of all loans made at a rate which shall be two percentage points less than the authorized interest rate on California Water Bonds at the time the application is filed. Interest shall accrue from the date the loan is made until it is repaid unless the loan is cancelled pursuant to Section 2208 or 2209.

(b) Loans made pursuant to this article which are not cancelled shall be repayable to the Contingent Fund of the Board of Medical Quality Assurance under the terms specified in such loan agreements in periodic installments, according to the schedule agreed upon by the division and the borrower, over a 10-year period which shall begin one year after the borrower ceases to operate his or her medical practice in an area deficient in primary care services,

excluding from such 10-year period all periods, up to three years, of (1) active duty performed by the borrower as a member of the armed forces of the United States, or (2) nonmilitary public service performed by the borrower which the division finds to be in the public interest.

2212. The division may assess a charge with respect to a loan made under this article for failure of the borrower to pay all or part of an installment when due and, in the case of a borrower who is entitled to a deferment under Section 2189.7, for any failure to file timely and satisfactory evidence of such entitlement. The amount of any such charge may not exceed five dollars (\$5) for each month by which such installment or evidence is late, except that there shall be no charge for the first month.

2213. The commission shall, under the provisions of this article, make a determination in priority as to which areas of the state are deficient in primary care services and the degree to which these areas are underserved. This study shall be updated biennially and shall be the basis for notifying loan recipients of areas which will satisfy the loan repayment provisions of this article.

2214. The board shall issue a report on the efficiency of the pilot program established pursuant to this article to the Legislature and the Governor on or before July 1, 1985.

SEC. 2.7. Section 2257 is added to the Business and Professions Code, to read:

2257. The violation of Section 1704.5 of the Health and Safety Code, relating to informed consent for the treatment of breast cancer, constitutes unprofessional conduct.

SEC. 2.9. Section 2258 is added to the Business and Professions Code, to read:

2258. The violation of Section 1708.5 of the Health and Safety Code, relating to the use of laetrile or amygdalin with respect to cancer therapy, constitutes unprofessional conduct.

SEC. 3. Section 2554.5 is added to the Business and Professions Code, to read:

2554.5. The amount of fees prescribed in connection with the registration of dispensing opticians is as follows:

(a) The application fee is fifty dollars (\$50), thirty-five dollars (\$35) of which may be refunded upon refusal or denial of a certificate.

(b) The initial license fee is an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the license is issued, except that if the license will expire less than one year after its issuance, then the initial license fee is an amount equal to 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the license is issued.

(c) The renewal fee shall be fixed by the Division of Allied Health Professions at not more than one hundred fifty dollars (\$150) and not less than one hundred dollars (\$100).

(d) The delinquency fee is fifteen dollars (\$15).

SEC. 4. Section 2529 of the Business and Professions Code is amended to read:

2529. Graduates of the Southern California Psychoanalytic Institute, the Los Angeles Psychoanalytic Society and Institute, the San Francisco Psychoanalytic Institute, the San Diego Psychoanalytic Institute, or institutes deemed equivalent by the Division of Allied Health Professions who have completed clinical training in psychoanalysis may engage in psychoanalysis as an adjunct to teaching, training, or research and hold themselves out to the public as psychoanalysts, and students in such institutes may engage in psychoanalysis under supervision, provided that such students and graduates do not hold themselves out to the public by any title or description of services incorporating the words "psychological," "psychologist," "psychology," "psychometrists," "psychometrics," or "psychometry," or that they do not state or imply that they are licensed to practice psychology.

Such students and graduates seeking to engage in psychoanalysis under this chapter shall register with the Division of Allied Health Professions, presenting evidence of their student or graduate status. The division may suspend or revoke the exemption of such persons for unprofessional conduct as defined in Sections 725, 2234, and 2235.

SEC. 5. Section 2529.5 of the Business and Professions Code is amended to read:

2529.5. Each person to whom registration is granted under the provisions of this chapter shall pay into the Contingent Fund of the Board of Medical Quality Assurance a fee to be fixed by the Division of Allied Health Professions at a sum not in excess of one hundred dollars (\$100).

The registration shall expire after two years. The registration may be renewed biennially at a fee to be fixed by the division at a sum not in excess of fifty dollars (\$50). Students seeking to renew their registration shall present to the division evidence of their continuing student status.

The money in the Contingent Fund of the Board of Medical Quality Assurance necessary for the administration of this chapter is hereby continuously appropriated for such purposes.

SEC. 6. Section 2554 of the Business and Professions Code is amended to read:

2554. (a) The provisions of Article 19 (commencing with Section 2420) and Article 20 (commencing with Section 2435) of Chapter 5 which are not inconsistent or in conflict with this chapter apply to the issuance and govern the expiration and renewal of certificates issued under this chapter. All fees collected from persons registered or seeking registration under this chapter shall be paid into the Contingent Fund of the Board of Medical Quality Assurance.

(b) The board may employ, subject to civil service regulations, whatever additional clerical assistance is necessary for the administration of this chapter.

SEC. 7. Section 2608.5 of the Business and Professions Code is amended to read:

2608.5. Each member of the examining committee, or any licensed physical therapist appointed by the committee, may inspect, or require reports from, a general or specialized hospital or any other facility providing physical therapy care, treatment or services and the physical therapy staff thereof, with respect to the physical therapy care, treatment, services, or facilities provided therein, and may inspect physical therapy patient records with respect to such care, treatment, services, or facilities. The authority to make inspections and to require reports as provided by this section shall not be delegated by a member of the committee to any person other than a physical therapist and shall be subject to the restrictions against disclosure described in Section 2263.

SEC. 8. Section 2630 of the Business and Professions Code is amended to read:

2630. It is unlawful for any person or persons to practice, or offer to practice, physical therapy in this state for compensation received or expected, or to hold himself or herself out as a physical therapist, unless at the time of so doing such person holds a valid unexpired and unrevoked license issued under this chapter.

Nothing in this section shall restrict the activities authorized by their licenses on the part of any persons licensed under this code or any initiative act, or the activities authorized to be performed pursuant to the provisions of Article 4.5 (commencing with Section 2655) or Chapter 7.7 (commencing with Section 3500).

A person licensed pursuant to this chapter may utilize the services of an aide to assist the licentiate in his or her practice of physical therapy. Such aide shall at all times be under the orders, direction, and immediate supervision of the licentiate. Nothing in this section shall authorize such an aide to independently perform physical therapy or any physical therapy procedure.

The administration of massage, external baths or normal exercise not a part of a physical therapy treatment shall not be prohibited by this section.

SEC. 9. Section 2683 of the Business and Professions Code is amended to read:

2683. The provisions of Article 19 (commencing with Section 2420) of Chapter 5 apply to the issuance and govern the expiration and renewal of licenses issued under this chapter.

SEC. 9.1. Section 2980 of the Business and Professions Code is repealed.

SEC. 9.2. Section 2980 is added to the Business and Professions Code, to read:

2980. (a) There is in the State Treasury the Psychology 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. All revenue received by the committee

and the board from fees authorized to be charged relating to the practice of psychology shall be deposited into such fund as provided in this section.

(b) If on the effective date of this section, money expended in the administration and enforcement of this chapter for five fiscal years prior to the effective date of this section has exceeded revenue derived from fees authorized under this chapter, the State Controller shall transfer from the Psychology Fund to the Contingent Fund of the Board of Medical Quality Assurance within three years from the effective date of this section the amount that such expenditures exceeded such revenue.

SEC. 9.3. Section 2981 of the Business and Professions Code is amended to read:

2981. The money in the Psychology Fund necessary for the administration of this chapter is hereby continuously appropriated for such purposes.

SEC. 10. Section 3515 of the Business and Professions Code is amended to read:

3515. (a) All approvals previously granted shall continue in full force and effect.

(b) The board shall approve an application by a licensed physician to supervise a physician's assistant, where the applicant has met all of the requirements of this chapter and the board's regulations.

(c) The committee shall approve an application to practice as a physician's assistant, where the applicant has successfully completed an examination, as specified in Section 3517, and has:

(1) Successfully completed an approved program; or

(2) Successfully completed, in a medical school or schools located in the United States, a resident course of professional instruction which has been determined by the board to be equivalent to that required by Sections 2088 and 2089 for an applicant for a physician's and surgeon's certificate.

SEC. 10.1. Section 4507 of the Business and Professions Code is amended to read:

4507. This chapter shall not apply to the following:

(a) Physicians and surgeons licensed pursuant to Chapter 5 (commencing with Section 2000) of Division 2.

(b) Psychologists licensed pursuant to Chapter 6.6 (commencing with Section 2900) of Division 2.

(c) Registered nurses licensed pursuant to Chapter 6 (commencing with Section 2700) of Division 2.

(d) Vocational nurses licensed pursuant to Chapter 6.5 (commencing with Section 2840) of Division 2.

(e) Social workers or clinical social workers licensed pursuant to Chapter 17 (commencing with Section 9000) of Division 3.

(f) Marriage, family, and child counselors licensed pursuant to Chapter 4 (commencing with Section 17800) of Division 7.

(g) Teachers credentialed pursuant to Chapter 1.5 (commencing with Section 13101) of Division 10 of the Education Code.

(h) Occupational therapists as specified in Chapter 5.6 (commencing with Section 2570) of Division 2.

(i) Art therapists, dance therapists, music therapists, and recreation therapists, as defined in Division 5 (commencing with Section 70001) of Title 22 of the California Administrative Code, who are personnel of health facilities licensed pursuant to Chapter 2 (commencing with Section 1250) of Division 2 of the Health and Safety Code.

(j) Such other categories of persons as the board determines are entitled to exemption from this chapter because they have complied with other licensing provisions of this code or because they are deemed by statute or by regulations contained in the California Administrative Code to be adequately trained in their respective occupations. Such exemptions shall apply only to a given specialized area of training within the specific discipline for which the exemption is granted.

SEC. 11. Chapter 12 (commencing with Section 4925) is added to Division 2 of the Business and Professions Code, to read:

## CHAPTER 12. ACUPUNCTURE

### Article 1. Administration and General Provisions

4925. This chapter shall be known and may be cited as the Acupuncture Certification Act. Whenever a reference is made to the Acupuncture Certification Act by the provisions of any statute, it is to be construed as referring to the provisions of this chapter.

4926. In its concern with the need to eliminate the fundamental causes of illness, not simply to remove symptoms, and with the need to treat the whole person, the Legislature intends to establish in this article, a framework for the practice of the art and science of oriental medicine through acupuncture.

The purpose of this article is to encourage the more effective utilization of the skills of acupuncturists by California citizens desiring a holistic approach to health and to remove the existing legal constraints which are an unnecessary hindrance to the more effective provision of health care services. Also, as it effects the public health, safety, and welfare, there is a necessity that individuals practicing acupuncture be subject to regulation and control as a primary health care profession.

4927. As used in this chapter, unless the context otherwise requires:

(a) "Committee" means the Acupuncture Advisory Committee.

(b) "Board" means the Division of Allied Health Professions of the Board of Medical Quality Assurance.

(c) "Person" means any individual, organization, or corporate body, except that only individuals can be certified under this article.

(d) "Acupuncturist" means a person who is certified to practice acupuncture.

(e) "Acupuncture" means the stimulation of a certain point or points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of certain diseases or dysfunctions of the body and includes the techniques of electroacupuncture, cupping, and moxibustion.

4928. The Governor shall appoint an Acupuncture Advisory Committee which consists of 11 members to advise the board on the administration and implementation of this chapter.

4929. Five members of the committee shall be acupuncturists with 10 years' experience in acupuncture and not licensed as physicians and surgeons, two members of the committee shall be physicians and surgeons licensed in this state with two years' experience in acupuncture, and four members shall be public members who do not hold a license or certificate as a physician and surgeon or acupuncturist.

4930. Each member of the committee shall be appointed by the Governor for a term of three years.

4931. Each member of the committee shall receive per diem and expenses as provided in Section 103.

4933. The board shall administer the provisions of this chapter.

The board may adopt, amend, or repeal, in accordance with the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), such regulations as may be necessary to enable it to carry into effect the provisions of law relating to the practice of acupuncture.

4934. The board shall employ whatever personnel is necessary for the administration of this chapter.

## Article 2. Certification Requirements

4935. Any person who practices acupuncture or holds himself or herself out as practicing acupuncture, unless he or she possess an acupuncturist's certificate, or is participating in a course or tutorial program in acupuncture, as provided for in this chapter, is guilty of a misdemeanor.

4937. An acupuncturist's certificate authorizes the holder thereof:

(a) To engage in the practice of acupuncture.

(b) To perform or prescribe the use of, oriental massage, breathing techniques, exercise, or nutrition, including the incorporation of drugless substances and herbs as dietary supplements to promote health.

Nothing in this section shall be construed to prohibit any person who does not possess an acupuncturist's certificate or another license as a healing arts practitioner from performing, or prescribing the use of, oriental massage, breathing techniques, exercises, or nutrition, including the incorporation of drugless substances and herbs as dietary supplements, to promote health, so long as such activities are not performed or prescribed in connection with the practice of acupuncture.

4938. The board shall issue a certificate to practice acupuncture to any person who makes application to the board and meets the following requirements:

(a) Is at least 18 years of age.

(b) Furnishes satisfactory evidence of completion of (1) a course or (2) tutorial program in acupuncture which are approved by the board or furnishes satisfactory evidence of three years' experience in performing acupuncture.

(c) Passes an examination administered by the board which tests the applicant's ability, competency, and knowledge of the practice of acupuncture. The examination shall include a practical examination of the skills required to competently practice acupuncture.

(d) Is not subject to denial pursuant to Division 1.5 (commencing with Section 475).

4939. The board shall establish standards for the approval of courses of training in acupuncture and tutorial programs in acupuncture, completion of which will satisfy the requirements of Section 4938.

4940. (a) In approving tutorial programs under Section 4939, the board may approve programs served under an approved supervising acupuncturist.

(b) An acupuncturist shall be approved to supervise a trainee, provided the supervisor meets the following conditions:

(1) Is certified to practice acupuncture in this state and such certification is current, valid, and has not been suspended or revoked.

- (2) Has filed an application with the board.
- (3) Files with the board the name of each trainee to be trained or employed.
- (4) Does not train or employ more than two acupuncture trainees at any one time.

4941. In reviewing applications for certification based upon the completion of a tutorial program in acupuncture, the board shall insure that credit is granted for relevant prior training and experience and that credit is not denied for training or experience acquired prior to January 1, 1980, when such training or experience otherwise meets the standards set by the board.

4944. (a) The board shall have the authority to investigate and evaluate each and every applicant applying for a certificate to practice acupuncture and to make the final determination of the admission of the applicant to the examination, or for the issuance of a certificate, in conformance with the provisions of this chapter.

(b) The board may delegate to the committee in its discretion its functions under this section and may delegate to the executive director of the board or other official of the board its authority under this section in routine matters.

4945. The board may establish standards for continuing education for acupuncturists.

4946. The board shall report to the Legislature on the 31st day of January each year on the nature and extent of the standards, tests, and experience requirements adopted pursuant to this chapter, as well as statistical information relating to the total number of persons certified under this chapter to that date and the number certified within the preceding year.

Such report shall include recommendations for legislation if the division considers legislation to be necessary.

4946.5. The board shall include in the report to the Legislature required by Section 4946 a description of all the complaints received, disciplinary actions taken, and prosecutions brought by the board which involve the practice of acupuncture by licensed acupuncturists.

This section shall remain operative only until February 1, 1985, and as of such date is repealed.

4947. Nothing in this chapter shall be construed to prevent the practice of acupuncture by a person licensed as a physician and surgeon, a dentist, or a podiatrist, within the scope of their respective licenses.

4948. The provisions of this chapter shall not be construed to make unlawful the activities of persons involved in research pursuant to Section 2075.

## Article 4. Enforcement

4955. The board may deny, suspend, or revoke, or impose probationary conditions upon, the certificate of any acupuncturist if he or she is guilty of unprofessional conduct which has endangered or is likely to endanger the health, safety, or welfare of the public.

Such unprofessional conduct shall include the following:

- (a) Securing a certificate by fraud or deceit.
- (b) Committing a fraudulent or dishonest act as an acupuncturist resulting in substantial injury to another.
- (c) Using any narcotic as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any hypnotic drug or alcoholic beverage to an extent or in a manner dangerous to himself or herself, or to any other person, or to the public, and to an extent that such use impairs his or her ability to engage in the practice of acupuncture with safety to the public.
- (d) Conviction of a crime substantially related to the qualifications, functions, or duties of an acupuncturist, the record of conviction being conclusive evidence thereof.
- (e) Improper advertising.
- (f) Violating or conspiring to violate the terms of this chapter.

4956. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge which is substantially related to the qualifications, functions, or duties of an acupuncturist is deemed to be a conviction within the meaning of this chapter.

The board may order a certificate suspended or revoked, or may deny a certificate, or may impose probationary conditions upon a certificate, 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 allowing such person to withdraw his or her pleas of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

4960. Disciplinary proceedings under this article shall be conducted pursuant to the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title 2 of the Government Code).

4961. An acupuncturist shall post his or her certificate in a conspicuous location in his or her place of practice at all times.

If an acupuncturist has more than one place of practice, he or she shall obtain from the board a duplicate certificate for each additional location and post such duplicate certificate at each such location.

4963. Whenever any person has engaged in an act or practice which constitutes an offense against this chapter, a superior court of a county on application of the board may issue an injunction or other appropriate order restraining such conduct. Proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure. The board may commence action in such superior court under the provisions of this section on its own motion and no undertaking shall be required in any action commenced by the board.

4964. The provisions of this article insofar as they are substantially the same as provisions relating to the same subject matter of any previous acupuncture certification law shall be construed as a restatement and continuation thereof, and not as a new enactment.

#### Article 5. Renewal

4965. Certificates issued pursuant to this chapter shall expire on December 31st of each even-numbered year, if not renewed.

To renew an unexpired certificate, the holder shall apply for renewal on a form provided by the board and pay the renewal fee fixed by the board.

4966. Except as provided in Section 4969, a certificate which has expired may be renewed at any time within five years after its expiration on filing of an application for renewal on a form provided by the board and the payment of the renewal fee in effect on the last regular renewal date. If the certificate is not renewed within 30 days after its expiration, the acupuncturist, as a condition precedent to renewal, shall also pay the prescribed delinquency fee. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or, on the date the delinquency fee is paid, whichever occurs last. If so renewed, the certificate shall continue in effect through the expiration date provided in Section 4965, after the effective date of the renewal, when it shall expire and become invalid if it is not again renewed.

4967. A person who fails to renew his or her certificate within five years after its expiration may not renew it, and it may not be restored, reissued, or reinstated thereafter, but such person may apply for and obtain a new certificate if he or she meets the requirements of this chapter.

4969. (a) A suspended certificate is subject to expiration and shall be renewed as provided in this article, but such renewal does not entitle the acupuncturist, while the certificate remains suspended, and until it is reinstated, to engage in the practice of acupuncture, or in any other activity or conduct in violation of the order or judgment by which the certificate was suspended.

(b) A revoked certificate is subject to expiration as provided in

this article, but it may not be renewed. If it is reinstated after its expiration, the former licensee, as a condition to reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the certificate was reinstated, plus the delinquency fee, if any, accrued at the time of its expiration.

#### Article 6. Revenue

4970. The amount of fees prescribed for certified acupuncturists shall be fixed by the board according to the following schedule:

(a) The application fee shall not be more than one hundred fifty dollars (\$150).

(b) The biennial renewal fee shall not be more than one hundred fifty dollars (\$150) and shall be an amount sufficient to support the functions of the board in the administration of this chapter.

(c) The reexamination fee shall not be more than seventy-five dollars (\$75).

(d) The delinquency fee is twenty-five dollars (\$25).

4971. The amount of fees prescribed for acupuncture tutorial programs shall be as follows:

(a) The application and registration fee to supervise an acupuncture trainee is fifty dollars (\$50).

(b) The annual renewal fee for approval to supervise an acupuncture trainee is twenty-five dollars (\$25).

(c) The application fee for an acupuncture trainee is ten dollars (\$10).

(d) The annual renewal fee for an acupuncture trainee is ten dollars (\$10).

(e) The delinquency fee is 50 percent of the renewal fee.

4973. If an application for a certificate is denied or withdrawn, the board may retain 10 percent of the application fee to cover administrative costs in processing such application.

4974. The board shall report to the Controller at the beginning of each month for the month preceding the amount and source of all revenue received by it pursuant to this chapter, and shall pay the entire amount thereof to the State Treasurer for deposit in the Acupuncture Fund, which fund is created and continuously appropriated to carry out the provisions of this chapter.

4975. This chapter shall remain in effect until July 1, 1982, on which date it is repealed.

SEC. 11.5. Chapter 12 (commencing with Section 4925) is added to Division 2 of the Business and Professions Code, to read:

### CHAPTER 12. ACUPUNCTURE

#### Article 1. Administration and General Provisions

4925. This chapter constitutes the chapter on acupuncture of the

**Business and Professions Code.**

This chapter shall be known and may be cited as the Acupuncture Certification Act. Whenever a reference is made to the Acupuncture Certification Act by the provisions of any statute, it is to be construed as referring to the provisions of this chapter.

4926. In its concern with the need to eliminate the fundamental causes of illness, not simply to remove symptoms, and with the need to treat the whole person, the Legislature intends to establish in this article, a framework for the practice of the art and science of oriental medicine through acupuncture.

The purpose of this article is to encourage the more effective utilization of the skills of acupuncturists by California citizens desiring a holistic approach to health and to remove the existing legal constraints which are an unnecessary hinderance to the more effective provision of health care services. Also, as it effects the public health, safety, and welfare, there is a necessity that individuals practicing acupuncture be subject to regulation and control as a primary health care profession.

4927. As used in this chapter, unless the context otherwise requires:

(a) "Committee" means the Acupuncture Examining Committee.

(b) "Board" means the Division of Allied Health Professions of the Board of Medical Quality Assurance.

(c) "Person" means any individual, organization, or corporate body, except that only individuals can be certified under this article.

(d) "Acupuncturist" means a person who is certified to practice acupuncture.

(e) "Acupuncture" means the stimulation of a certain point or points on or near the surface of the body by the insertion of needles to prevent or modify the perception of pain or to normalize physiological functions, including pain control, for the treatment of certain diseases or dysfunctions of the body and includes the techniques of electroacupuncture, cupping, and moxibustion.

4928. There is within the jurisdiction of the board an Acupuncture Examining Committee which consist of 11 members appointed by the Governor.

4929. Five members of the committee shall be acupuncturists with 10 years of experience in acupuncture and not licensed as physicians and surgeons, two members of the committee shall be physicians and surgeons licensed in this state with two years of experience in acupuncture, and four members shall be public members who do not hold a license or certificate as a physician and surgeon or acupuncturist.

4930. Each member of the committee shall be appointed by the Governor for a term of three years.

4931. Each member of the committee shall receive per diem and expenses as provided in Section 103.

4933. The committee shall administer the provisions of this chapter.

The committee may adopt, amend, or repeal, in accordance with the provisions of the Administrative Procedure Act (Chapter 3.5 (commencing with Section 11340) of Part 1 of Division 3 of Title 2 of the Government Code), such regulations as may be necessary to enable it to carry into effect the provisions of law relating to the practice of acupuncture. All regulations adopted, amended or repealed by the committee shall be subject to the review and approval of the board.

4934. The board shall employ personnel necessary for the administration of this chapter, however, the committee may appoint an executive officer who is exempt from the provisions of the Civil Service Act.

## Article 2. Certification Requirements

4935. Any person who practices acupuncture or holds himself or herself out as practicing acupuncture, unless he or she possesses an acupuncturist's certificate, or is participating in a course or tutorial program in acupuncture, as provided for in this chapter, is guilty of a misdemeanor.

4937. An acupuncturist's certificate authorizes the holder thereof:

- (a) To engage in the practice of acupuncture.
- (b) To perform or prescribe the use of, oriental massage, breathing techniques, exercise, or nutrition, including the incorporation of drugless substances and herbs as dietary supplements to promote health.

Nothing in this section shall be construed to prohibit any person who does not possess an acupuncturist's certificate or another license as a healing arts practitioner from performing, or prescribing the use of, oriental massage, breathing techniques, exercises, or nutrition, including the incorporation of drugless substances and herbs as dietary supplements, to promote health, so long as such activities are not performed or prescribed in connection with the practice of acupuncture.

4938. The committee shall issue a certificate to practice acupuncture to any person who makes application to the board and meets the following requirements:

- (a) Is at least 18 years of age.
- (b) Furnishes satisfactory evidence of completion of (1) a course or (2) a tutorial program in acupuncture which is approved by the committee or furnishes satisfactory evidence of three years of experience performing acupuncture.
- (c) Passes an examination administered by the committee which tests the applicant's ability, competency, and knowledge of the practice of acupuncture. The examination shall include a practical examination of the skills required to competently practice acupuncture. Such examination shall be prepared and administered

in accordance with regulations adopted by the committee.

(d) Is not subject to denial pursuant to Division 1.5 (commencing with Section 475).

4939. The committee shall establish standards for the approval of courses of training in acupuncture and tutorial programs in acupuncture, completion of which will satisfy the requirements of Section 4938.

4940. (a) In approving tutorial programs under Section 4939, the committee may approve programs served under an approved supervising acupuncturist.

(b) An acupuncturist shall be approved to supervise a trainee, provided the supervisor meets the following conditions:

(1) Is certified to practice acupuncture in this state and such certification is current, valid, and has not been suspended or revoked.

(2) Has filed an application with the committee.

(3) Files with the committee the name of each trainee to be trained or employed.

(4) Does not train or employ more than two acupuncture trainees at any one time.

(5) Has at least seven years of experience practicing acupuncture.

4941. In reviewing applications for certification based upon the completion of a tutorial program in acupuncture, the committee shall insure that credit is granted for relevant prior training and experience and that credit is not denied for training or experience acquired prior to January 1, 1980, when such training or experience otherwise meets the standards set by the committee.

4944. (a) The committee shall have the authority to investigate and evaluate each and every applicant applying for a certificate to practice acupuncture and to make the final determination of the admission of the applicant to the examination, or for the issuance of a certificate, in conformance with the provisions of this chapter.

(b) The committee may delegate to the executive officer or other official of the board its authority under this section in routine matters.

4945. The committee may establish standards for continuing education for acupuncturists.

4946. The committee shall report to the Legislature on the 31st day of January each year on the nature and extent of the standards, test, and experience requirements adopted pursuant to this chapter, as well as statistical information relating to the total number of persons certified under this chapter to that date and the number certified within the preceding year.

Such report shall include recommendations for legislation if the committee considers legislation to be necessary.

4946.5. The committee shall include in the report to the Legislature required by Section 4946 a description of all the complaints received, disciplinary actions taken, and prosecutions brought by the committee which involve the practice of

acupuncture by licensed acupuncturists.

This section shall remain operative only until February 1, 1985, and as of such date is repealed.

4947. Nothing in this chapter shall be construed to prevent the practice of acupuncture by a person licensed as a physician and surgeon, a dentist, or a podiatrist, within the scope of their respective licenses.

4948. The provisions of this chapter shall not be construed to make unlawful the activities of persons involved in research pursuant to Section 2075.

#### Article 4. Enforcement

4955. The committee may deny, suspend, or revoke, or impose probationary conditions upon, the certificate of any acupuncturist if he or she is guilty of unprofessional conduct which has endangered or is likely to endanger the health, safety, or welfare of the public.

Such unprofessional conduct shall include the following:

(a) Securing a certificate by fraud or deceit.

(b) Committing a fraudulent or dishonest act as an acupuncturist resulting in substantial injury to another.

(c) Using any narcotic as defined in Division 10 (commencing with Section 11000) of the Health and Safety Code, or any hypnotic drug or alcoholic beverage to an extent or in a manner dangerous to himself or herself, or to any other person, or to the public, and to an extent that such use impairs his or her ability to engage in the practice of acupuncture with safety to the public.

(d) Conviction of a crime substantially related to the qualifications, functions, or duties of an acupuncturist, the record of conviction being conclusive evidence thereof.

(e) Improper advertising.

(f) Violating or conspiring to violate the terms of this chapter.

4956. A plea or verdict of guilty or a conviction following a plea of nolo contendere made to a charge which is substantially related to the qualifications, functions, or duties of an acupuncturist is deemed to be a conviction within the meaning of this chapter.

The committee may order a certificate suspended or revoked, or may deny a certificate, or may impose probationary conditions upon a certificate, 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 allowing such person to withdraw his or her pleas of guilty and to enter a plea of not guilty, or setting aside the verdict of guilty, or dismissing the accusation, complaint, information, or indictment.

4960. Disciplinary proceedings under this article shall be conducted pursuant to the Administrative Procedure Act (Chapter 5 (commencing with Section 11500) of Part 1 of Division 3 of Title

2 of the Government Code).

4961. An acupuncturist shall post his or her certificate in a conspicuous location in his or her place of practice at all times.

If an acupuncturist has more than one place of practice, he or she shall obtain from the committee a duplicate certificate for each additional location and post such duplicate certificate at each such location.

4963. Whenever any person has engaged in an act or practice which constitutes an offense against this chapter, a superior court of a county on application of the committee may issue an injunction or other appropriate order restraining such conduct. Proceedings under this section shall be governed by Chapter 3 (commencing with Section 525) of Title 7 of Part 2 of the Code of Civil Procedure. The committee may commence action in such superior court under the provisions of this section on its own motion and no undertaking shall be required in any action commenced by the committee.

4964. The provisions of this article insofar as they are substantially the same as provisions relating to the same subject matter of any previous acupuncture certification law shall be construed as a restatement and continuation thereof, and not as a new enactment.

#### Article 5. Renewal

4965. Certificates issued pursuant to this chapter shall expire on December 31st of each even-numbered year, if not renewed.

To renew an unexpired certificate, the holder shall apply for renewal on a form provided by the committee and pay the renewal fee fixed by the committee.

4966. Except as provided in Section 4969, a certificate which has expired may be renewed at any time within five years after its expiration on filing of an application for renewal on a form provided by the committee and the payment of the renewal fee in effect on the last regular renewal date. If the certificate is not renewed within 30 days after its expiration, the acupuncturist, as a condition precedent to renewal, shall also pay the prescribed delinquency fee. Renewal under this section shall be effective on the date on which the application is filed, on the date on which the renewal fee is paid, or on the date the delinquency fee is paid, whichever occurs last. If so renewed, the certificate shall continue in effect through the expiration date provided in Section 4965, after the effective date of the renewal, when it shall expire and become invalid if it is not again renewed.

4967. A person who fails to renew his or her certificate within five years after its expiration may not renew it, and it may not be restored, reissued, or reinstated thereafter, but such person may apply for and obtain a new certificate if he or she meets the requirements of this chapter.

4969. (a) A suspended certificate is subject to expiration and shall be renewed as provided in this article, but such renewal does

not entitle the acupuncturist, while the certificate remains suspended, and until it is reinstated, to engage in the practice of acupuncture, or in any other activity or conduct in violation of the order or judgment by which the certificate was suspended.

(b) A revoked certificate is subject to expiration as provided in this article, but it may not be renewed. If it is reinstated after its expiration, the former licensee, as a condition to reinstatement, shall pay a reinstatement fee in an amount equal to the renewal fee in effect on the last regular renewal date before the date on which the certificate was reinstated, plus the delinquency fee, if any, accrued at the time of its expiration.

#### Article 6. Revenue

4970. The amount of fees prescribed for certified acupuncturists shall be fixed by the committee according to the following schedule:

(a) The application fee shall not be more than one hundred fifty dollars (\$150).

(b) The biennial renewal fee shall not be more than one hundred fifty dollars (\$150) and shall be an amount sufficient to support the functions of the board and committee in the administration of this chapter.

(c) The reexamination fee shall not be more than seventy-five dollars (\$75).

(d) The delinquency fee is twenty-five dollars (\$25).

4971. The amount of fees prescribed for acupuncture tutorial programs shall be as follows:

(a) The application and registration fee to supervise an acupuncture trainee is fifty dollars (\$50).

(b) The annual renewal fee for approval to supervise an acupuncture trainee is twenty-five dollars (\$25).

(c) The application fee for an acupuncture trainee is ten dollars (\$10).

(d) The annual renewal fee for an acupuncture trainee is ten dollars (\$10).

(e) The delinquency fee is 50 percent of the renewal fee.

4972. Fees fixed by the committee shall be set forth in regulations duly adopted by the committee.

4973. If an application for a certificate is denied or withdrawn, the committee may retain 10 percent of the application fee to cover administrative costs in processing such application.

4974. The board shall report to the State Controller at the beginning of each month for the month preceding the amount and source of all revenue received by it pursuant to this chapter, and shall pay the entire amount thereof to the State Treasurer for deposit in the Acupuncture Fund, which fund is created and continuously appropriated to carry out the provisions of this chapter.

4975. This chapter shall become operative on July 1, 1982.

SEC. 12. Section 994 of the Evidence Code is amended to read:

994. Subject to Section 912 and except as otherwise provided in this article, the patient, whether or not a party, has a privilege to refuse to disclose, and to prevent another from disclosing, a confidential communication between patient and physician 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 physician 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.

The relationship of a physician and patient shall exist between a medical or podiatry corporation as defined in the Medical Practice Act and the patient to whom it renders professional services, as well as between such patients and licensed physicians and surgeons employed by such corporation to render services to such patients. The word "persons" as used in this subdivision includes partnerships, corporations, associations, and other groups and entities.

SEC. 13. Section 1366 of the Health and Safety Code is amended to read:

1366. (a) No plan may use in its name, any of the words "insurance," "casualty," "surety," "mutual," or any other words descriptive of the insurance, casualty, or surety business or use any name similar to the name or description of any insurance or surety corporation doing business in this state unless such plan controls or is controlled by an entity licensed as an insurer pursuant to the provisions of the Insurance Code and the plan employs a name related to that of such controlled or controlling entity.

(b) Section 2415 of the Business and Professions Code, pertaining to fictitious names, shall not apply to plans, except specialized health care service plans.

(c) No plan or solicitor firm may adopt a name style that is deceptive, or one that could cause the public to believe the plan is affiliated with, or recommended by any governmental or private entity unless such affiliation or endorsement exists.

SEC. 14. Section 1373 of the Health and Safety Code as amended by Chapter 11 of the Statutes of 1980, 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 licensed pursuant to the Psychology Licensing Law or, upon referral by a physician and surgeon licensed pursuant to the Medical Practice Act, 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 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. 14.5. Section 1373 of the Health and Safety Code, as amended by Chapter 11 of the Statutes of 1980, 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 licensed pursuant to the Psychology Licensing Law or, upon referral by a physician and surgeon licensed pursuant to the Medical Practice Act, 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 a member to select and obtain mental health or psychological 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.

All health care service plans and individual practice associations which offer mental health benefits shall make reasonable efforts to make available to their members the services of licensed psychologists. However, a failure of a plan or association to comply with the requirements of the preceding sentence shall not constitute a misdemeanor.

As used in this subdivision, "individual practice association" means an entity as defined in subsection (5) of Section 1307 of the federal Public Health Service Act (subs. (5), Sec. 300e-1, 42 U.S.C.).

(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. 15. Section 11453 of the Health and Safety Code is amended to read:

11453. The Department of Justice may employ a physician to interview and examine any patient for whom any controlled substance classified in Schedule I, II, or III has been prescribed or to whom any such controlled substance has been furnished or administered, or who is an habitual user of such a controlled substance, or who has a previous addiction record to a substance listed as a controlled substance classified in Schedule I, II, or III.

The patient shall submit to the interview and examination and shall not in any manner hinder or impede it.

The physician employed by the Department of Justice to conduct the interview and examination shall report the results of the examination and interview to the department.

The physician so employed may testify in any action brought under this division or in any administrative hearing conducted under the Medical Practice Act or the Osteopathic Act and his or her testimony is not privileged.

Every person who violates any provision of this section is guilty of a misdemeanor.

SEC. 16. Section 25661 of the Health and Safety Code is amended to read:

25661. As used in this chapter:

(a) "Department" means the State Department of Health Services.

(b) "Board" means the State Department of Health Services.

(c) "Committee" means the Radiologic Technology Certification Committee.

(d) "Radiologic technology" means the application of X-rays on human beings for diagnostic or therapeutic purposes.

(e) "Radiologic technologist" means any person other than a licentiate of the healing arts making application of X-rays to human beings for diagnostic or therapeutic purposes pursuant to subdivision (b) of Section 25668.

(f) "Limited permit" means a permit issued pursuant to subdivision (c) of Section 25668 to persons to conduct radiologic technology limited to the performance of certain procedures or the application of X-ray to specific areas of the human body.

(g) "Approved school for radiologic technologists" means a school which the department has determined provides a course of instruction in radiologic technology which is adequate to meet the purposes of this chapter.

(h) "Supervision" means responsibility for, and control of, quality, radiation safety, and technical aspects of all X-ray examinations and procedures.

(i) "Licentiate of the healing arts" means a person licensed under the provisions of the Medical Practice Act, and a person licensed under the provisions of the initiative act entitled "An act prescribing the terms upon which licenses may be issued to practitioners of chiropractic, creating the State Board of Chiropractic Examiners and declaring its powers and duties, prescribing penalties for violation thereof, and repealing all acts and parts of acts inconsistent herewith," approved by electors November 7, 1922, as amended, or under the "Osteopathic Act."

(j) "Certified supervisor or operator" means a licentiate of the healing arts who has been certified under the provisions of subdivision (e) of Section 25668, 25699.1, or Section 25699.2, to supervise the operation of X-ray machines or to operate X-ray machines, or both.

(k) "Student of radiologic technology" means a person who has started and is in good standing in a course of instruction which, if completed, would permit the person to be certified a radiologic technologist or granted a limited permit upon satisfactory completion of any examination required by the department. "Student of radiologic technology" does not include any person who is a student in a school of medicine, chiropractic, podiatry, dentistry, dental radiography, or dental hygiene.

SEC. 17. Section 32128 of the Health and Safety Code is amended to read:

32128. The rules of the hospital, established by the board of directors pursuant to this article, shall include: 1. Provision for the organization of physicians and surgeons, podiatrists, and dentists licensed to practice in this state who are permitted to practice in the hospital into a formal medical staff, with appropriate officers and bylaws and with staff appointments on an annual or biennial basis; 2. Provision for procedure for appointment and reappointment of medical staff as provided by the standards of the Joint Committee on Accreditation of Hospitals; 3. Provisions that the medical staff shall be self-governing with respect to the professional work performed in the hospital; that the medical staff shall meet in accordance with the minimum requirements of the Joint Committee on Accreditation of Hospitals; and that the medical records of the patients shall be the basis for such review and analysis; 4. Provision that accurate and complete medical records be prepared and maintained for all patients (medical records to include identification data, personal and family history, history of present illness, physical examination, special examinations, professional or working diagnoses, treatment, gross and microscopic pathological findings, progress notes, final diagnosis, condition on discharge, and such other matters as the medical staff shall determine); and, 5. Such limitations with respect to the practice of medicine and surgery in the hospital as the board of directors may find to be in the best interests of the public health and welfare, including appropriate provision for proof of ability to respond in damages by applicants for staff membership; provided, that no duly licensed physician and surgeon shall be excluded from staff membership solely because he or she is licensed by the Board of Osteopathic Examiners.

Said rules of the hospital shall, insofar as consistent herewith, be in accord with and contain, minimum standards not less than the rules and standards of private or voluntary hospitals operating within the district.

SEC. 18. Section 32129 of the Health and Safety Code is amended to read:

32129. Notwithstanding the provisions of the Medical Practice Act, the board of directors may contract with physicians and surgeons, health care provider groups, and nonprofit corporations for the rendering of professional health services on such basis as does not result in any profit or gain to the district from the services so rendered and as allows the board to ensure that fees and charges, if any, are reasonable, fair, and consistent with the basic commitment of the district to provide adequate health care to all residents within its boundaries.

SEC. 19. Sections 9.1, 9.2, and 9.3 of this act shall become operative on July 1, 1981.

SEC. 20. It is the intent of the Legislature that if this bill and Assembly Bill 3389 are both chaptered and become operative January 1, 1981, and this bill is chaptered last, that the amendments to Section 2193.77 of the Business and Professions Code proposed by Assembly Bill 3389 be incorporated into the revision of the Medical Practice Act made by this bill.

Therefore, Section 2106 of the Business and Professions Code, as added by Section 2.1 of this act, shall become operative only if this bill and Assembly Bill 3389 are both chaptered and become operative January 1, 1981, and this bill is chaptered last, in which case Section 2106 of the Business and Professions Code, as added by Section 2 of this act, shall not become operative.

SEC. 21. Section 2.3 of this act shall become operative only if this bill and Senate Bill 2057 are both chaptered and become operative on or before January 1, 1981, and this bill is chaptered last.

SEC. 22. It is the intent of the Legislature that if this bill and Assembly Bill 3127 are both chaptered and become operative January 1, 1981, and this bill is chaptered last, that the addition of Article 4.7 (commencing with Section 2189) to Chapter 5 of Division 2 of the Business and Professions Code proposed by Assembly Bill 3127 be incorporated into the revision of the Medical Practice Act made by this bill.

Therefore, Article 11 (commencing with Section 2200) of Chapter 5 of Division 2 of the Business and Professions Code, as added by Section 2.5 of this act, shall become operative only if this bill and Assembly Bill 3127 are both chaptered and become operative January 1, 1981, and this bill is chaptered last.

SEC. 23. Section 2.7 of this act shall become operative only if this bill and Senate Bill 1893 are both chaptered and become operative January 1, 1981.

SEC. 24. Section 2.9 of this act shall become operative only if this bill and Senate Bill 1580 are both chaptered and become operative on or before January 1, 1981.

SEC. 25. It is the intent of the Legislature, if this bill and Senate Bill No. 1811 are both chaptered and become effective January 1, 1981, both bills amend Section 1373 of the Health and Safety Code, and this bill is chaptered after Senate Bill No. 1981, that the amendments to Section 1373 proposed by both bills be given effect and incorporated in Section 1373 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 Senate Bill No. 1811 are both chaptered and become effective January 1, 1981, both amend Section 1373, and this bill is chaptered after Senate Bill No. 1811, in which case Section 14 of this act shall not become operative.

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## CHAPTER 1314

An act to amend Sections 2907.5 and 2913 of, to add Sections 2406, 2407, 2408, 2409, 2410, 2411, 2412, 2413, 2454, and 2499 to, to add Article 7 (commencing with Section 4975) to Chapter 12 of Division 2 of, to repeal and add Article 3.6 (commencing with Section 2160) and Article 17 (commencing with Section 2500) of Chapter 5 of, Article 7 (commencing with Section 2536) of Chapter 5.3 of, Article 8 (commencing with Section 2690) of Chapter 5.7 of, and Article 9 (commencing with Section 2995) of Chapter 6.6 of, Division 2 of, and to repeal Article 8 (commencing with Section 2537) of Chapter 5.3 of Division 2 of, to repeal Article 7 (commencing with Section 4975) of Chapter 12 of Division 2 of, and Sections 2688.5 and 2988 of, the Business and Professions Code, and to amend Sections 13401 and 13404 of, and to add Section 13401.5 to, the Corporations Code, relating to professional corporations.

[Approved by Governor September 30, 1980 Filed with  
Secretary of State September 30, 1980 ]

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

SECTION 1. Article 3.6 (commencing with Section 2160) of Chapter 5 of Division 2 of the Business and Professions Code, is repealed.

SEC. 2. Article 3.6 (commencing with Section 2160) is added to Chapter 5 of Division 2 of the Business and Professions Code, to read:

### Article 3.6. Acupuncture Corporations

2160. An acupuncture corporation is a corporation which is authorized to render professional services, as defined in Section 13401 of the Corporations Code, so long as that corporation and its shareholders, officers, directors and employees rendering professional services who are acupuncturists are in compliance with the Moscone-Knox Professional Corporation Act, the provisions of this article and all other statutes and regulations now or hereafter enacted or adopted pertaining to such corporation and the conduct of its affairs.

With respect to an acupuncture corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the Division of Allied Health Professions of the Board of Medical Quality Assurance.

2160.1. It shall constitute unprofessional conduct and a violation of this chapter for any person licensed under this chapter to violate, attempt to violate, directly or indirectly, or assist in or abet the violation of, or conspire to violate, any provision or term of this article, the Moscone-Knox Professional Corporation Act, or any regulations duly adopted under those laws.

2160.2. An acupuncture corporation shall not do or fail to do any act the doing of which or the failure to do which would constitute unprofessional conduct under Section 2157.4. In the conduct of its practice, it shall observe and be bound by such statutes and regulations to the same extent as a person holding a certificate under this chapter.

2160.3. The income of an acupuncture corporation attributable to professional services rendered while a shareholder is a disqualified person (as defined in Section 13401 of the Corporations Code) shall not in any manner accrue to the benefit of such shareholder or his or her shares in the acupuncture corporation.

2160.4. Except as provided in Section 13403 of the Corporations Code, each director, shareholder, and officer of an acupuncture corporation, except an assistant secretary and an assistant treasurer, shall be a licensed person as defined by Section 13401 of the Corporations Code.

2160.5. The name of an acupuncture corporation and any name or names under which it may render professional services shall contain words "acupuncture" or "acupuncturist" and wording or abbreviations denoting corporate existence.

2160.6. The board may adopt and enforce regulations to carry out the purposes and objectives of this article, including, but not limited to, regulations requiring (a) that the bylaws of an acupuncture corporation shall include a provision whereby the capital stock of such corporation owned by a disqualified person (as defined in Section 13401 of the Corporations Code), or a deceased person, shall be sold to the corporation or to the remaining shareholders of such corporation within such time as such regulations may provide, and (b) that an acupuncture corporation shall provide adequate security by insurance or otherwise for claims against it by its patients arising out of the rendering of professional services.

SEC. 2.1. Article 7 (commencing with Section 4975) is added to Chapter 12 of Division 2 of the Business and Professions Code, as added by Senate Bill No. 1558, to read:

## Article 7. Acupuncture Corporations

4975. An acupuncture corporation is a corporation which is authorized to render professional services, as defined in Section 13401 of the Corporations Code, so long as that corporation and its shareholders, officers, directors and employees rendering professional services who are acupuncturists are in compliance with the Moscone-Knox Professional Corporations Act, the provisions of this article and all other statutes and regulations now or hereafter enacted or adopted pertaining to such corporation and the conduct of its affairs.

With respect to an acupuncture corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the Division of Allied Health Professions of the Board of Medical Quality Assurance.

4976. It shall constitute unprofessional conduct and a violation of this chapter for any person licensed under this chapter to violate, attempt to violate, directly or indirectly, or assist in or abet the violation of, or conspire to violate, any provision or term of this article, the Moscone-Knox Professional Corporation Act, or any regulations duly adopted under those laws.

4977. An acupuncture corporation shall not do or fail to do any act the doing of which or the failure to do which would constitute unprofessional conduct under Article 4. In the conduct of its practice, it shall observe and be bound by such statutes and regulations to the same extent as a person holding a certificate under this chapter.

4977.1. The income of an acupuncture corporation attributable to professional services rendered while a shareholder is a disqualified person (as defined in Section 13401 of the Corporations Code) shall not in any manner accrue to the benefit of such shareholder or his or her shares in the acupuncture corporation.

4977.2. Except as provided in Section 13403 of the Corporations Code, each director, shareholder, and officer of an acupuncture corporation, except an assistant secretary and an assistant treasurer, shall be a licensed person as defined by Section 13401 of the Corporations Code.

4978. The name of an acupuncture corporation and any name or names under which it may render professional services shall contain the words "acupuncture" or "acupuncturist" and wording or abbreviations denoting corporate existence.

4979. The board may adopt and enforce regulations to carry out the purposes and objectives of this article, including, but not limited to, regulations requiring (a) that the bylaws of an acupuncture corporation shall include a provision whereby the capital stock of such corporation owned by a disqualified person (as defined in Section 13401 of the Corporations Code), or a deceased person shall be sold to the corporation or to the remaining shareholders of such corporation within such time as such regulations may provide, and (b) that an acupuncture corporation shall provide adequate security

by insurance or otherwise for claims against it by its patients arising out of the rendering of professional services.

SEC. 2.2. Article 7 (commencing with Section 4975) is added to Chapter 12 of Division 2 of the Business and Professions Code, as added by Senate Bill No. 1558, to read:

#### Article 7. Acupuncture Corporations

4975. An acupuncture corporation is a corporation which is authorized to render professional services, as defined in Section 13401 of the Corporations Code, so long as that corporation and its shareholders, officers, directors and employees rendering professional services who are acupuncturists are in compliance with the Moscone-Knox Professional Corporation Act, the provisions of this article and all other statutes and regulations now or hereafter enacted or adopted pertaining to such corporation and the conduct of its affairs.

With respect to an acupuncture corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the Acupuncture Examining Committee.

4976. It shall constitute unprofessional conduct and a violation of this chapter for any person licensed under this chapter to violate, attempt to violate, directly or indirectly, or assist in or abet the violation of, or conspire to violate, any provision or term of this article, the Moscone-Knox Professional Corporation Act, or any regulations duly adopted under those laws.

4977. An acupuncture corporation shall not do or fail to do any act the doing of which or the failure to do which would constitute unprofessional conduct under Article 4. In the conduct of its practice, it shall observe and be bound by such statutes and regulations to the same extent as a person holding a certificate under this chapter.

4977.1. The income of an acupuncture corporation attributable to professional services rendered while a shareholder is a disqualified person (as defined in Section 13401 of the Corporations Code) shall not in any manner accrue to the benefit of such shareholder or his or her shares in the acupuncture corporation.

4977.2. Except as provided in Section 13403 of the Corporations Code, each director, shareholder, and officer of an acupuncture corporation, except an assistant secretary and an assistant treasurer, shall be a licensed person as defined by Section 13401 of the Corporations Code.

4978. The name of an acupuncture corporation and any name or names under which it may render professional services shall contain words "acupuncture" or "acupuncturist" and wording or abbreviations denoting corporate existence.

4979. The committee may adopt and enforce regulations to carry out the purposes and objectives of this article, including, but not limited to, regulations requiring (a) that the bylaws of an acupuncture corporation shall include a provision whereby the

capital stock of such corporation owned by a disqualified person (as defined in Section 13401 of the Corporations Code), or a deceased person, shall be sold to the corporation or to the remaining shareholders of such corporation within such time as such regulations may provide, and (b) that an acupuncture corporation shall provide adequate security by insurance or otherwise for claims against it by its patients arising out of the rendering of professional services.

SEC. 2.4. Section 2413 is added to Article 18 (commencing with Section 2400) of Chapter 5 of Division 2 of the Business and Professions Code, as added by Senate Bill No. 1558, to read:

2413. The provisions of this article shall apply to medical corporations which have physicians and surgeons licensed by the Board of Osteopathic Examiners as shareholders, officers and directors only to the extent that the provisions of this article are not in conflict with or inconsistent with the provisions of Section 2454.

SEC. 2.5. Section 2454 is added to Article 21 (commencing with Section 2450) of Chapter 5 of Division 2 of the Business and Professions Code, as added by Senate Bill No. 1558, to read:

2454. A medical corporation which has physicians and surgeons licensed by the Board of Osteopathic Examiners as shareholders, officers and directors shall comply with the provisions of this section and the provisions of Article 18 (commencing with Section 2400) which are not in conflict with or inconsistent with the provisions of this section. "Board" as used in this section means the Board of Osteopathic Examiners.

A medical corporation is a corporation which is registered with the board with reference to corporations rendering professional services as osteopathic physicians and surgeons and has a currently effective certificate of registration from such board as set forth in the Moscone-Knox Professional Corporation Act (Section 13400 et seq. of the Corporations Code) and this section. Subject to all applicable statutes and regulations, such medical corporation is entitled to practice medicine. With respect to medical corporations rendering the professional services of osteopathic physicians and surgeons, the governmental agency referred to in Section 13401, subdivision (b), of the Corporations Code is the Board of Osteopathic Examiners.

(b) An applicant for registration as a medical corporation consisting of osteopathic physicians and surgeons under this section shall supply to the board all necessary and pertinent documents and information requested by the board concerning the applicant's plan of operation, including but not limited to a copy of its articles of incorporation, certified by the Secretary of State, a copy of its bylaws, certified by the secretary of the corporation, the name and address of the corporation, the names and addresses of its shareholders, directors and officers and employees who will render professional services as osteopathic physicians and surgeons, the address of each office and an applicant for any fictitious name or names under which the corporation intends to render professional services. The board may provide forms of application. The application shall be signed and

verified by an officer of the corporation. If the board finds that the corporation is in compliance with the Moscone-Knox Professional Corporation Act, Article 17 and this section and any regulations adopted pursuant thereto, and that from the application it appears the affairs of the corporation will be conducted in compliance with such laws and regulations, the board shall upon payment of the registration fee in such amount as it may determine, issue a certificate of registration.

(c) Within such time as the board may by regulation provide, a medical corporation issued a certificate under this section shall report in writing to the board any changes in share ownership, directors, officers, professional employees rendering medical services and the name of the corporation or any name under which it may render professional services and any change of address and any amendments to its articles of incorporation or bylaws.

(d) Each medical corporation issued a certificate under this section shall file annually with the board at a time set forth in its regulations a report containing such information pertaining to the qualification and compliance with the statutes and regulations referred to in this section. The board may provide forms for filing such report. All such reports shall be signed and verified by an officer of the corporation. The fee for filing such a report shall be fixed by the board.

(e) The board may adopt and enforce regulations to carry out the purposes and objectives of this article and the Moscone-Knox Professional Corporation Act including regulations requiring (a) that the bylaws of a medical corporation shall include a provision whereby the capital stock of such corporation owned by a disqualified person (as defined in ~~Section~~ 13401 of the Corporations Code), or a deceased person, shall be sold to the corporation or to the remaining shareholders of such corporation within such time as such regulations may provide, and (b) that a medical corporation shall provide adequate security by insurance or otherwise for claims against it by its patients arising out of the rendering of professional services.

(f) The board may delegate to its executive officer, or other official or employee of the board, its authority to review and approve applications filed under this section and Section 2415 for fictitious name permits and to issue certificates of registration to medical corporations described in this section and to issue such fictitious name permits to corporations and physicians and surgeons who qualify therefor.

SEC. 2.6. Section 2499 is added to Article 16 (commencing with Section 2490) of Chapter 5 of Division 2 of the Business and Professions Code, to read:

2499. A medical corporation which has physicians and surgeons licensed by the Board of Osteopathic Examiners as shareholders, officers and directors shall comply with the provisions of this section and the provisions of Article 17 (commencing with Section 2500)

which are not in conflict with or inconsistent with the provisions of this section. "Board" as used in this section means the Board of Osteopathic Examiners.

(a) A medical corporation is a corporation which is registered with the board with reference to corporations rendering professional services as osteopathic physicians and surgeons and has a currently effective certificate of registration from the board as set forth in the Moscone-Knox Professional Corporation Act (Section 13400 et seq. of the Corporations Code) and this section. Subject to all applicable statutes and regulations, such medical corporation is entitled to practice medicine. With respect to medical corporations rendering the professional services of osteopathic physicians and surgeons, the governmental agency referred to in Section 13401, subdivision (b), of the Corporations Code is the Board of Osteopathic Examiners.

(b) An applicant for registration as a medical corporation consisting of osteopathic physicians and surgeons under this section shall supply to the board all necessary and pertinent documents and information requested by the board concerning the applicant's plan of operation, including but not limited to a copy of its articles of incorporation, certified by the Secretary of State, a copy of its bylaws, certified by the secretary of the corporation, the name and address of the corporation, the names and addresses of its shareholders, directors and officers and employees who will render professional services as osteopathic physicians and surgeons, the address of each office and an application for any fictitious name or names under which the corporation intends to render professional services. The board may provide forms of application. The application shall be signed and verified by an officer of the corporation. If the board finds that the corporation is in compliance with the Moscone-Knox Professional Corporation Act, Article 17 and this section and any regulations adopted pursuant thereto, and that from the application it appears the affairs of the corporation will be conducted in compliance with such laws and regulations, the board shall upon payment of the registration fee in such amount as it may determine, issue a certificate of registration.

(c) Within such time as the board may by regulation provide, a medical corporation issued a certificate under this section shall report in writing to the board any changes in share ownership, directors, officers, professional employees rendering medical services and the name of the corporation or any name under which it may render professional services and any change of address and any amendments to its articles of incorporation or bylaws.

(d) Each medical corporation issued a certificate under this section shall file annually with the board at a time set forth in its regulations a report containing such information pertaining to the qualification and compliance with the statutes and regulations referred to in this section. The board may provide forms for filing such report. All such reports shall be signed and verified by an officer of the corporation. The fee for filing such a report shall be fixed by the board.

(e) The board may adopt and enforce regulations to carry out the purposes and objectives of this article and the Moscone-Knox Professional Corporation Act including regulations requiring (a) that the bylaws of a medical corporation shall include a provision whereby the capital stock of such corporation owned by a disqualified person (as defined in Section 13401 of the Corporations Code), or a deceased person, shall be sold to the corporation or to the remaining shareholders of such corporation within such time as such regulations may provide, and (b) that a medical corporation shall provide adequate security by insurance or otherwise for claims against it by its patients arising out of the rendering of professional services.

(f) The board may delegate to its executive officer, or other official or employee of the board, its authority to review and approve applications filed under this section and Section 2393 for fictitious name permits and to issue certificates of registration to medical corporations described in this section and to issue such fictitious name permits to corporations and physicians and surgeons who qualify therefor.

SEC. 3. Article 17 (commencing with Section 2500) of Chapter 5 of Division 2 of the Business and Professions Code is repealed.

SEC. 4. Article 17 (commencing with Section 2500) is added to Chapter 5 of Division 2 of the Business and Professions Code, to read:

#### Article 17. Medical Corporations

2500. A medical corporation or podiatry corporation is a corporation which is authorized to render professional services, as defined in Section 13401 of the Corporations Code, so long as that corporation and its shareholders, officers, directors and employees rendering professional services who are physicians, psychologists, registered nurses, or podiatrists are in compliance with the Moscone-Knox Professional Corporation Act, the provisions of this article and all other statutes and regulations now or hereafter enacted or adopted pertaining to such corporation and the conduct of its affairs.

With respect to a medical corporation or podiatry corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the Division of Licensing.

2501. A medical or podiatry corporation shall be subject to the provisions of Section 2393.

2502. Except as provided in Sections 13401.5 and 13403 of the Corporations Code, each shareholder, director and officer of a medical or podiatry corporation, except an assistant secretary or an assistant treasurer, shall be a licensed person as defined in Section 13401 of the Corporations Code.

2503. The income of a medical and podiatry corporation attributable to professional services rendered while a shareholder is a disqualified person, as defined in Section 13401 of the Corporations

Code, shall not in any manner accrue to the benefit of such shareholder or his or her shares in such a professional corporation.

2504. A medical or podiatry corporation shall not do or fail to do any act the doing of which or the failure to do which would constitute unprofessional conduct under any statute or regulation now or hereafter in effect. In the conduct of its practice, it shall observe and be bound by such statutes and regulations to the same extent as a licensee under this chapter.

2505. Notwithstanding any other provision of law, the offering and operation by a medical corporation of a health care service plan licensed pursuant to the provisions of Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code is hereby authorized. For such purpose a medical corporation may employ, or enter into contracts or other arrangements with, any person or persons authorized to practice any of the healing arts, but no such employment, contract, or arrangement shall provide for the rendering, supervision, or control of professional services other than as authorized by law.

2506. The Division of Licensing may adopt and enforce regulations to carry out the purposes and objectives of this article and the Moscone-Knox Professional Corporation Act including regulations requiring (a) that the bylaws of a medical or podiatry corporation shall include a provision whereby the capital stock of such corporation owned by a disqualified person (as defined in Section 13401 of the Corporations Code), or a deceased person, shall be sold to the corporation or to the remaining shareholders of such corporation within such time as such regulations may provide, and (b) that a medical or podiatry corporation shall provide adequate security by insurance or otherwise for claims against it by its patients arising out of the rendering of professional services.

2509. The provisions of the article shall apply to medical corporations which have physicians and surgeons licensed by the Board of Osteopathic Examiners as shareholders, officers and directors only to the extent that the provisions of this article are not in conflict with or inconsistent with the provisions of Section 2499.

SEC. 4.1. Section 2406 is added to the Business and Professions Code, to read:

2406. A medical corporation or podiatry corporation is a corporation which is authorized to render professional services, as defined in Sections 13401 and 13401.5 of the Corporations Code, so long as that corporation and its shareholders, officers, directors and employees rendering professional services who are physicians, psychologists, registered nurses, or podiatrists are in compliance with the Moscone-Knox Professional Corporation Act, the provisions of this article and all other statutes and regulations now or hereafter enacted or adopted pertaining to such corporation and the conduct of its affairs.

With respect to a medical corporation or podiatry corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the Division of Licensing.

SEC. 4.2. Section 2407 is added to the Business and Professions Code, to read:

2407. A medical or podiatry corporation shall be subject to the provisions of Sections 2285 and 2415.

SEC. 4.3. Section 2408 is added to the Business and Professions Code, to read:

2408. Except as provided in Sections 13401.5 and 13403 of the Corporations Code, each shareholder, director and officer of a medical or podiatry corporation, except an assistant secretary or an assistant treasurer, shall be a licensed person as defined in Section 13401 of the Corporations Code.

SEC. 4.4. Section 2409 is added to the Business and Professions Code, to read:

2409. The income of a medical and podiatry corporation attributable to professional services rendered while a shareholder is a disqualified person, as defined in Section 13401 of the Corporations Code, shall not in any manner accrue to the benefit of such shareholder or his or her shares in such a professional corporation.

SEC. 4.5. Section 2410 is added to the Business and Professions Code, to read:

2410. A medical or podiatry corporation shall not do or fail to do any act the doing of which or the failure to do which would constitute unprofessional conduct under any statute or regulation now or hereafter in effect. In the conduct of its practice, it shall observe and be bound by such statutes and regulations to the same extent as a licensee under this chapter.

SEC. 4.6. Section 2411 is added to the Business and Professions Code, to read:

2411. Notwithstanding any other provision of law, the offering and operation by a medical corporation of a health care service plan licensed pursuant to the provisions of Chapter 2.2 (commencing with Section 1340) of Division 2 of the Health and Safety Code is hereby authorized. For such purpose a medical corporation may employ, or enter into contracts or other arrangements with, any person or persons authorized to practice any of the healing arts, but no such employment, contract, or arrangement shall provide for the rendering, supervision, or control of professional services other than as authorized by law.

SEC. 4.7. Section 2412 is added to the Business and Professions Code, to read:

2412. The Division of Licensing may adopt and enforce regulations to carry out the purposes and objectives of this article and the Moscone-Knox Professional Corporation Act including regulations requiring (a) that the bylaws of a medical or podiatry corporation shall include a provision whereby the capital stock of such corporation owned by a disqualified person (as defined in Section 13401 of the Corporations Code), or a deceased person, shall be sold to the corporation or to the remaining shareholders of such corporation within such time as such regulations may provide, and

(b) that a medical or podiatry corporation shall provide adequate security by insurance or otherwise for claims against it by its patients arising out of the rendering of professional services.

SEC. 5. Article 7 (commencing with Section 2536) of Chapter 5.3 of Division 2 of the Business and Professions Code is repealed.

SEC. 6. Article 7 (commencing with Section 2536) is added to Chapter 5.3 of Division 2 of the Business and Professions Code, to read:

#### Article 7. Speech Pathology Corporations and Audiology Corporations

2536. A speech pathology corporation or an audiology corporation is a corporation which is authorized to render professional services, as defined in Section 13401 of the Corporations Code, so long as that corporation and its shareholders, officers, directors and employees rendering professional services who are speech pathologists or audiologists are in compliance with the Moscone-Knox Professional Corporation Act, the provisions of this article and all other statutes and regulations now or hereafter enacted or adopted pertaining to such corporation and the conduct of its affairs.

With respect to a speech pathology corporation or an audiology corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the Speech Pathology and Audiology Examining Committee of the Board of Medical Quality Assurance.

2537. It shall constitute unprofessional conduct and a violation of this chapter for any person licensed under this chapter to violate, attempt to violate, directly or indirectly, or assist in or abet the violation of, or conspire to violate, any provision or term of this article, the Moscone-Knox Professional Corporation Act, or any regulations duly adopted under those laws.

2537.1. A speech pathology corporation or an audiology corporation shall not do or fail to do any act the doing of which or the failure to do which would constitute unprofessional conduct under any statute or regulation now or hereafter in effect. In the conduct of its practice, it shall observe and be bound by such statutes and regulations to the same extent as a person holding a license under this chapter.

2537.2. Except as provided in Sections 13401.5 and 13403 of the Corporations Code, each shareholder, director and officer of a speech pathology corporation or an audiology corporation, except an assistant secretary and an assistant treasurer, shall be a licensed person as defined in Section 13401.

2537.3. The income of a speech pathology corporation or an audiology corporation attributable to professional services rendered while a shareholder is a disqualified person, as defined in Section 13401 of the Corporations Code, shall not in any manner accrue to

the benefit of such shareholder or his or her shares in the speech pathology or audiology corporation.

2538. (a) The name of a speech pathology corporation under which it may render professional services shall include one of the words specified in subdivision (a) of Section 2530.3 and the word "corporation" or wording or abbreviations denoting corporate existence.

(b) The name of an audiology corporation under which it may render professional services shall include one of the words specified in subdivision (b) of Section 2530.3 and the word "corporation" or wording or abbreviations denoting corporate existence.

2539. The committee may adopt and enforce regulations to carry out the purposes and objectives of this article, and the Moscone-Knox Professional Corporation Act, including regulations requiring (a) that the bylaws of a speech pathology corporation or an audiology corporation shall include a provision whereby the capital stock of such corporation owned by a disqualified person as defined in Section 13401 of the Corporations Code, or a deceased person shall be sold to the corporation or to the remaining shareholders of such corporation within such time as such regulations may provide, and (b) that a speech pathology corporation or an audiology corporation shall provide adequate security by insurance or otherwise for claims against it by its patients arising out of the rendering of professional services.

SEC. 7. Article 8 (commencing with Section 2537) of Chapter 5.3 of Division 2 of the Business and Professions Code is repealed.

SEC. 8. Section 2688.5 of the Business and Professions Code is repealed.

SEC. 9. Article 8 (commencing with Section 2690) of Chapter 5.7 of Division 2 of the Business and Professions Code is repealed.

SEC. 10. Article 8 (commencing with Section 2690) is added to Chapter 5.7 of Division 2 of the Business and Professions Code, to read:

#### Article 8. Physical Therapy Corporations

2690. A physical therapy corporation is a corporation which is authorized to render professional services, as defined in Section 13401 of the Corporations Code, so long as that corporation and its shareholders, officers, directors, and employees rendering professional services who are physical therapists are in compliance with the Moscone-Knox Professional Corporation Act, the provisions of this article and all other statutes and regulations now or hereafter enacted or adopted pertaining to such corporation and the conduct of its affairs.

With respect to a physical therapy corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the Physical Therapy Examining Committee of the Board of Medical Quality Assurance.

2691. It shall constitute unprofessional conduct and a violation of this chapter for any person licensed under this chapter to violate, attempt to violate, directly or indirectly, or assist in or abet the violation of, or conspire to violate any provision or term of this article, the Moscone-Knox Professional Corporation Act, or any regulations duly adopted under those laws.

2692. A physical therapy corporation shall not do or fail to do any act the doing of which or the failure to do which would constitute unprofessional conduct under any statute or regulation, now or hereafter in effect. In the conduct of its practice, it shall observe and be bound by such statutes and regulations to the same extent as a person holding a license under this chapter.

2693. The name of a physical therapy corporation and any name or names under which it may render professional services shall contain the words "physical therapy" or "physical therapist", and wording or abbreviations denoting corporate existence.

2694. Except as provided in Section 13403 of the Corporations Code, each shareholder, director and officer of a physical therapy corporation, except an assistant secretary and an assistant treasurer, shall be a licensed person as defined in Section 13401 of the Corporations Code.

2695. The income of a physical therapy corporation attributable to professional services rendered while a shareholder is a disqualified person, as defined in Section 13401 of the Corporations Code, shall not in any manner accrue to the benefit of such shareholder or his or her shares in the physical therapy corporation.

2696. The committee may adopt and enforce regulations to carry out the purposes and objectives of this article, including regulations requiring (a) that the bylaws of a physical therapy corporation shall include a provision whereby the capital stock of such corporation owned by a disqualified person (as defined in Section 13401 of the Corporations Code), or a deceased person, shall be sold to the corporation or to the remaining shareholders of such corporation within such time as such regulations may provide, and (b) that a physical therapy corporation shall provide adequate security by insurance or otherwise for claims against it by its patients arising out of the rendering of professional services.

SEC. 11. Section 2907.5 of the Business and Professions Code is amended to read:

2907.5. Nothing in Section 2907 shall be deemed to apply to the acts of a psychological corporation practicing pursuant to the Moscone-Knox Professional Corporation Act, as contained in Part 4 (commencing with Section 13400) of Division 3 of Title 1 of the Corporations Code and Article 9 (commencing with Section 2995) when the psychological corporation is in compliance with (a) the Moscone-Knox Professional Corporation Act; (b) Article 9 (commencing with Section 2995); and (c) all other statutes now or hereafter enacted or adopted pertaining to such corporation and the conduct of its affairs.

SEC. 12. Section 2913 of the Business and Professions Code is amended to read:

2913. A person other than a licensed psychologist may be employed by a licensed psychologist, by a licensed physician and surgeon who is board certified in psychiatry by the American Board of Psychiatry and Neurology, by a clinic which provides mental health services under contract pursuant to Section 5614 of the Welfare and Institutions Code, by a psychological corporation or by a medical corporation to perform limited psychological functions provided that:

(a) Such person is termed a "psychological assistant."

(b) Such person has completed at least one fully matriculated year of graduate training in psychology from an accredited or approved university, college, or professional school. In addition, on and after January 1, 1980, such person to maintain registration as a "psychological assistant," and to be entitled to use such title, shall have completed all requirements for a master's degree from an accredited or approved university, college, or professional school. On and after January 1, 1980, a master's degree in (1) psychology, or (2) education with the field of specialization in psychology or counseling psychology from an accredited or approved university, college, or professional school shall be required of all new registrants as psychology assistants.

(c) Such person is at all times under the immediate supervision, as defined in regulations adopted by the committee, of a licensed psychologist, or board certified psychiatrist, who shall be responsible for insuring that the extent, kind, and quality of the psychological services he or she performs are consistent with his or her training and experience and be responsible for his or her compliance with the provisions of this chapter and regulations duly adopted hereunder, including those provisions set forth in Section 2960.

(d) The licensed psychologist, board-certified psychiatrist, contract clinic, psychological corporation, or medical corporation, has registered the psychological assistant with the committee. Such registration shall be renewed annually in accordance with regulations adopted by the committee.

No licensed psychologist may register, employ or supervise more than three such psychological assistants at any given time unless specifically authorized to do so by the committee. No board-certified psychiatrist may register, employ, or supervise more than one such psychological assistant at any given time. No contract clinic, psychological corporation, or medical corporation may employ more than 10 such assistants at any one time. No contract clinic may register, employ, or provide supervision for more than one psychological assistant for each designated full-time staff psychiatrist who is qualified and supervises such psychological assistants. No psychological assistant may provide psychological services to the public for a fee, monetary or otherwise except as an employee of a licensed psychologist, licensed physician, contract clinic, psychological corporation or medical corporation.

(e) Such psychological assistant shall comply with regulations that the committee may, from time to time, duly adopt relating to the fulfillment of requirements in continuing education.

(f) No person shall practice as a psychological assistant who is found by the committee to be in violation of the provisions of Section 2960 and the rules and regulations duly adopted thereunder.

SEC. 13. Section 2988 of the Business and Professions Code is repealed.

SEC. 14. Article 9 (commencing with Section 2995) of Chapter 6.6 of Division 2 of the Business and Professions Code is repealed.

SEC. 15. Article 9 (commencing with Section 2995) is added to Chapter 6.6 of Division 2 of the Business and Professions Code, to read:

### Article 9. Psychological Corporations

2995. A psychological corporation is a corporation which is authorized to render professional services, as defined in Section 13401 of the Corporations Code, so long as that corporation and its shareholders, officers, directors and employees rendering professional services who are psychologists or physicians are in compliance with the Moscone-Knox Professional Corporation Act, the provisions of this article and all other statutes and regulations now or hereafter enacted or adopted pertaining to such corporation and the conduct of its affairs.

With respect to a psychological corporation, the governmental agency referred to in the Moscone-Knox Professional Corporation Act is the Psychology Examining Committee of the Board of Medical Quality Assurance.

2996. It shall constitute unprofessional conduct and a violation of this chapter for any person licensed under this chapter to violate, attempt to violate, directly or indirectly, or assist in or abet the violation of, or conspire to violate, any provision or term of this article, the Moscone-Knox Professional Corporation Act, or any regulations duly adopted under those laws.

2996.1. A psychological corporation shall not do or fail to do any act the doing of which or the failure to do which would constitute unprofessional conduct under any statute or regulation now or hereafter in effect. In the conduct of its practice, it shall observe and be bound by such statutes and regulations to the same extent as a person licensed under this chapter.

2996.2. The income of a psychological corporation attributable to professional services rendered while a shareholder is a disqualified person, as defined in Section 13401 of the Corporations Code, shall not in any manner accrue to the benefit of such shareholder or his or her shares in the psychological corporation.

2997. Except as provided in Sections 13401.5 and 13403 of the Corporations Code, each shareholder, director and officer of a

psychological corporation, except an assistant secretary and an assistant treasurer, shall be a licensed person as defined in Section 13401 of the Corporations Code.

2998. The name of a psychological corporation and any name or names under which it may render professional services shall contain one of the words specified in subdivision (c) of Section 2902, and wording or abbreviations denoting corporate existence.

2999. The committee may adopt and enforce regulations to carry out the purposes and objectives of this article, including regulations requiring (a) that the bylaws of a psychological corporation shall include a provision whereby the capital stock of such corporation owned by a disqualified person, as defined in Section 13401 of the Corporations Code, or a deceased person, shall be sold to the corporation or to the remaining shareholders of such corporation within such time as such regulations may provide, and (b) that a psychological corporation shall provide adequate security by insurance or otherwise for claims against it by its patients or clients arising out of the rendering of professional services.

SEC. 16. 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 in Section 13401.5, 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, provided however, that any professional corporation rendering professional services by persons duly licensed by the Board of Medical Quality Assurance or any examining committee under the jurisdiction of the board, shall not be required to obtain a certificate of registration in order to render such professional services.

(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.

(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 or she is an officer, director, shareholder or employee is or was rendering.

SEC. 17. Section 13401.5 is added to the Corporations Code, to read:

13401.5. Notwithstanding subdivision (c) of Section 13401 and any other provision of law, the following licensed persons may be shareholders, officers, directors or professional employees of the professional corporations designated in this section so long as the sum of all shares owned by such licensed persons does not exceed 49 percent of the total number of shares of the professional corporation so designated herein and so long as the number of such licensed persons owning shares in the professional corporation so designated herein does not exceed the number of persons licensed by the governmental agency regulating the designated professional corporation:

- (a) Medical corporation.
  - (1) Licensed psychologists.
  - (2) Registered nurses.
- (b) Psychological corporation.
  - (1) Licensed physicians and surgeons.
- (c) Speech pathology corporation.
  - (1) Licensed audiologist.
- (d) Audiology corporation.
  - (1) Licensed speech pathologist.

SEC. 17.1. Section 13401.5 is added to the Corporations Code, to read:

13401.5. Notwithstanding subdivision (c) of Section 13401 and any other provision of law, the following licensed persons may be shareholders, officers, directors or professional employees of the professional corporations designated in this section so long as the sum of all shares owned by such licensed persons does not exceed 49 percent of the total number of shares of the professional corporation so designated herein and so long as the number of such licensed persons owning shares in the professional corporation so designated herein does not exceed the number of persons licensed by the governmental agency regulating the designated professional corporation:

- (a) Medical corporation.
  - (1) Licensed podiatrists.
  - (2) Licensed psychologists.
  - (3) Registered nurses.
- (b) Podiatry corporation.
  - (1) Licensed physicians and surgeons.
- (c) Psychological corporation.
  - (1) Licensed physicians and surgeons.
- (d) Speech pathology corporation.
  - (1) Licensed audiologist.
- (e) Audiology corporation.
  - (1) Licensed speech pathologist.

SEC. 18. Section 13404 of the Corporations Code is amended to read:

13404. A corporation may be formed under the General Corporation Law for the purposes of qualifying as a professional corporation in the manner provided in this part and rendering professional services. The articles of incorporation of a professional corporation shall contain a specific statement that the corporation is a professional corporation within the meaning of this part. Except as provided in subdivision (b) of Section 13401, no professional corporation shall render professional services in this state without a currently effective certificate of registration issued by the governmental agency regulating the profession in which such corporation is or proposes to be engaged, pursuant to the applicable provisions of the Business and Professions Code or the Chiropractic Act expressly authorizing such professional services to be rendered by a professional corporation.

SEC. 19. If this bill, Senate Bill 1558, and Assembly Bill 3040 are all chaptered, the provisions of Section 2.1 of this bill shall become operative on January 1, 1981, and shall remain operative until July 1, 1982, at which time the provisions of Section 2.1 shall be repealed and the provisions of Section 2.2 shall become operative, and the provisions of Section 2 shall not become operative.

If Assembly Bill 3040 is not chaptered, and both this bill and Senate Bill 1558 are chaptered, the provisions of Section 2.1 of this bill shall become operative, and the provisions of Sections 2 and 2.2 shall not become operative.

If neither Assembly Bill 3040 nor Senate Bill 1558 are chaptered and this bill is chaptered, the provisions of Section 2 shall become operative, and the provisions of Sections 2.1 and 2.2 shall not become operative.

SEC. 20. If both this bill and Senate Bill 1558 are chaptered, the provisions of Sections 2.4, 2.5, 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, and 4.7 shall become operative, and the provisions of Sections 2.6 and 4 shall not become operative.

If this bill is chaptered and Senate Bill 1558 is not chaptered, the provisions of Sections 2.6 and 4 shall become operative, and the provisions of Sections 2.4, 2.5, 4.1, 4.2, 4.3, 4.4, 4.5, 4.6, and 4.7 shall not become operative.

SEC. 21. If both this bill and Assembly Bill 3449 are chaptered, the provisions of Sections 17.1 shall become operative, and the provisions of Section 17 of this bill shall not become operative. If this bill is chaptered and Assembly Bill 3449 is not chaptered, the provisions of Section 17 shall become operative and the provisions of Section 17.1 shall not become operative.

## CHAPTER 1315

An act to amend Section 2913 of the Business and Professions Code, and to amend Section 1209 of, and to add Sections 1200.1, 1204.1, 1206.1, and 1214.5 to, the Health and Safety Code, relating to health.

[Approved by Governor September 30, 1980 Filed with  
Secretary of State September 30, 1980 ]

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

SECTION 1. Section 2913 of the Business and Professions Code is amended to read:

2913. A person other than a licensed psychologist may be employed by a licensed psychologist, by a licensed physician and surgeon who is board certified in psychiatry by the American Board of Psychiatry and Neurology, by a clinic which provides mental health services under contract pursuant to Section 5614 of the Welfare and Institutions Code, by a psychological corporation registered under Section 2995, by a licensed psychology clinic as defined in subdivision (c) of Section 1204 of the Health and Safety Code, or by a medical corporation registered under Section 2500 to perform limited psychological functions provided that:

(a) Such person is termed a "psychological assistant."

(b) Such person has completed at least one fully matriculated year of graduate training in psychology from an accredited or approved university, college, or professional school. In addition, on or before January 1, 1983, such person to maintain registration as a "psychological assistant," and to be entitled to use such title, shall have completed all requirements for a master's degree from an accredited or approved university, college, or professional school. On and after January 1, 1980, a master's degree in (1) psychology, or (2) education with the field of specialization in psychology or counseling psychology from an accredited or approved university, college, or professional school shall be required of all new registrants as psychology assistants.

(c) Such person is at all times under the immediate supervision, as defined in regulations adopted by the committee, of a licensed psychologist, or board certified psychiatrist, who shall be responsible for insuring that the extent, kind, and quality of the psychological services he or she performs are consistent with his or her training and experience and be responsible for his or her compliance with the provisions of this chapter and regulations duly adopted hereunder, including those provisions set forth in Section 2960.

(d) The licensed psychologist, board-certified psychiatrist, contract clinic, psychological corporation, or medical corporation, has registered the psychological assistant with the committee. Such registration shall be renewed annually in accordance with regulations adopted by the committee.

No licensed psychologist may register, employ or supervise more than three such psychological assistants at any given time unless specifically authorized to do so by the committee. No board-certified psychiatrist may register, employ, or supervise more than one such psychological assistant at any given time. No contract clinic, psychological corporation, or medical corporation may employ more than 10 such assistants at any one time. No contract clinic may register, employ, or provide supervision for more than one psychological assistant for each designated full-time staff psychiatrist who is qualified and supervises such psychological assistants. No psychological assistant may provide psychological services to the public for a fee, monetary or otherwise except as an employee of a licensed psychologist, licensed physician, contract clinic, psychological corporation or medical corporation.

(e) Such psychological assistant shall comply with regulations that the committee may, from time to time, duly adopt relating to the fulfillment of requirements in continuing education.

(f) No person shall practice as a psychological assistant who is found by the committee to be in violation of the provisions of Section 2960 and the rules and regulations duly adopted thereunder.

SEC. 2. Section 1200.1 is added to the Health and Safety Code, to read:

1200.1. (a) As used in this chapter, "clinic" also means an organized outpatient health facility which, pursuant to Section 1204.1, provides direct psychological advice, services, or treatment to patients who remain less than 24 hours, and which may also provide diagnostic or therapeutic services authorized under Chapter 6.6 (commencing with Section 2900) of Division 2 of the Business and Professions Code to patients in the home as an incident to care provided at the clinic facility.

(b) Psychological clinics, as defined in Section 1204.1, shall not be considered primary care clinics for the purposes of any state grants, state loans, or other state aid.

Nothing contained in this section shall prohibit psychological clinics from receiving payment to which they are otherwise entitled from the state or in which the state participates financially, for services rendered pursuant to their license.

(c) Any reference in any statute to Section 1200 shall be deemed and construed to also be a reference to this section.

SEC. 3. Section 1204.1 is added to the Health and Safety Code, to read:

1204.1. In addition to the primary care clinics and specialty clinics specified in Section 1204, clinics eligible for licensure pursuant to this chapter include psychology clinics. A "psychology clinic" is a clinic which provides psychological advice, services, or treatment to patients, under the direction of a clinical psychologist as defined in Section 1316.5, and is 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 psychology 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 taxation under paragraph (3), subsection (c) of Section 501 of the Internal Revenue Code of 1954, as amended, or a statutory successor thereof, shall operate a psychology clinic.

Only a psychology clinic may be licensed under this chapter to exclusively provide psychological advice, services, or treatment. However, nothing in this subdivision precludes clinics specified in Section 1204 from providing psychological advice, services, or treatment as included within, or adjunctive to, medical advice, services, or treatment provided by such clinics.

The licensure of all psychology clinics shall expire January 1, 1983, and no psychology clinic license may be issued or renewed on or after such date.

SEC. 4. Section 1206.1 is added to the Health and Safety Code, to read:

1206.1. The provisions of this chapter do not require licensure of any place or establishment owned or leased and operated as a clinic or office by one or more licensed psychologists and used as an office for the practice of psychology, regardless of the name used publicly to identify such place or establishment.

SEC. 5. Section 1209 of the Health and Safety Code is amended to read:

1209. This chapter does not authorize any person other than a licensed practitioner of a healing art, or any corporation except charitable or professional corporations as expressly provided in this chapter, to furnish to any person any advice, services, or treatment within the scope of such professional licensure.

This chapter does not authorize any person, other than a licentiate of a healing art acting within the scope of his or her license, to engage directly or indirectly in the practice of medicine and surgery, dentistry, optometry, podiatry, psychology, or pharmacy.

This chapter does not regulate, govern, or affect in any manner the practice of medicine and surgery, pharmacy, dentistry, optometry, chiropractic, podiatry, psychology, or drugless healing by any person duly licensed to engage in such practice.

SEC. 6. Section 1214.5 is added to the Health and Safety Code, to read:

1214.5. Each application under this chapter for an initial license, renewal license, license upon change of ownership, or special permit for a psychology clinic shall be accompanied by a fee of thirty dollars (\$30).

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 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.

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## CHAPTER 1316

An act to amend Sections 1200 and 1206 of the Health and Safety Code, relating to health.

[Approved by Governor September 30, 1980 Filed with  
Secretary of State September 30, 1980]

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

SECTION 1. Section 1200 of the Health and Safety Code is amended to read:

1200. As used in this chapter, "clinic" means an organized outpatient health facility which provides direct medical, surgical, dental, optometric, or podiatric advice, services, or treatment to patients who remain less than 24 hours, and which may also provide diagnostic or therapeutic services to patients in the home as an incident to care provided at the clinic facility. Nothing in this section shall be construed to prohibit the provision of nursing services in a clinic licensed pursuant to this chapter. In no case shall a clinic be deemed to be a health facility subject to the provisions of Chapter 2 (commencing with Section 1250) of this division. A place, establishment, or institution which solely provides advice, counseling, information, or referrals on the maintenance of health or on the means and measures to prevent or avoid sickness, disease, or injury, where such advice, counseling, information, or referrals does not constitute the practice of medicine, surgery, dentistry, optometry, or podiatry, shall not be deemed a clinic for purposes of this chapter.

References in this chapter to "primary care clinics" shall mean and designate all the types of clinics specified in subdivision (a) of Section 1204, including community clinics, free clinics, and employees' clinics. References in this chapter to specialty clinics shall mean and designate all the types of clinics specified in subdivision (b) of Section 1204, including surgical clinics, chronic dialysis clinics, rehabilitation clinics, and multispecialty clinics.

SEC. 2. Section 1206 of the Health and Safety Code is amended to read:

1206. The provisions of this chapter do not apply to the following:

(a) Except with respect to specialty clinics specified in paragraphs (2) and (4) of subdivision (b) of Section 1204, any place or establishment owned or leased and operated as a clinic or office by one or more licensed physicians and surgeons, by one or more licensed dentists, by one or more licensed podiatrists, by one or more licensed optometrists, or by one or more licensed chiropractors and used as an office for the practice of medicine and surgery, dentistry, podiatry, optometry, or chiropractic, as the case may be, by such persons, regardless of the name used publicly to identify such place or establishment.

(b) Any clinic directly conducted, maintained or operated by the United States or by any of its departments, officers, or agencies, and any primary care clinic specified in subdivision (a) of Section 1204 which is directly conducted, maintained, or operated by this state or by any of its political subdivisions or districts, or by any city. Nothing in this subdivision shall preclude the state department from adopting regulations which utilize clinic licensing standards as eligibility criteria for participation in programs funded wholly or partially under Title XVIII or XIX of the federal Social Security Act.

(c) Any clinic conducted, maintained or operated by a federally recognized Indian tribe or tribal organization, as defined in Section 450 or 1601 of Title 25 of the United States Code, and which is located on land recognized as tribal land by the federal government.

(d) Clinics conducted, operated, or maintained as outpatient departments of hospitals.

(e) Any facility licensed as a health facility under the provisions of Chapter 2 (commencing with Section 1250) of this division.

(f) Any freestanding clinical or pathological laboratory licensed under the provisions of Chapter 3 (commencing with Section 1200) of Division 2 of the Business and Professions Code.

(g) A clinic operated by, or affiliated with, any institution of learning which teaches a recognized healing art and is approved by the state board or commission vested with responsibility for regulation of the practice of that healing art.

(h) A clinic that is operated on an intermittent basis by a local health department or by a community or free clinic. Such an intermittent or satellite clinic shall, however meet all requirements of law, including administrative regulations, pertaining to fire and life safety.

(i) The offices of physicians in group practice who provide a preponderance of their services to members of a comprehensive group practice prepayment health care service plan subject to Chapter 2.2 (commencing with Section 1340) of Division 2.

(j) Student health centers operated by public institutions of higher education.

(k) Nonprofit speech and hearing centers, as defined in Section 1201.5. Any nonprofit speech and hearing clinic desiring an exemption under this subdivision shall make application therefor to the State Director of Health Services, who shall grant the exception to any facility meeting the criteria of Section 1201.5. Notwithstanding the licensure exemption contained in this subdivision, a nonprofit speech and hearing center shall be deemed to be an organized outpatient clinic for purposes of qualifying for reimbursement as a rehabilitation center under the Medi-Cal Act, Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code.

SEC. 2.5. Section 1206 of the Health and Safety Code is amended to read:

1206. The provisions of this chapter do not apply to the following:

(a) Except with respect to specialty clinics specified in paragraph (2) of subdivision (b) of Section 1204, any place or establishment owned or leased and operated as a clinic or office by one or more licensed health care practitioners and used as an office for the practice of their profession, within the scope of their license, regardless of the name used publicly to identify such place or establishment.

(b) Any clinic directly conducted, maintained or operated by the United States or by any of its departments, officers, or agencies, and any primary care clinic specified in subdivision (a) of Section 1204 which is directly conducted, maintained, or operated by this state or by any of its political subdivisions or districts, or by any city. Nothing in this subdivision shall preclude the state department from adopting regulations which utilize clinic licensing standards as eligibility criteria for participation in programs funded wholly or partially under Title XVIII or XIX of the federal Social Security Act.

(c) Any clinic conducted, maintained or operated by a federally recognized Indian tribe or tribal organization, as defined in Section 450 or 1601 of Title 25 of the United States Code, and which is located on land recognized as tribal land by the federal government.

(d) Clinics conducted, operated, or maintained as outpatient departments of hospitals.

(e) Any facility licensed as a health facility under the provisions of Chapter 2 (commencing with Section 1250) of this division.

(f) Any freestanding clinical or pathological laboratory licensed under the provisions of Chapter 3 (commencing with Section 1200) of Division 2 of the Business and Professions Code.

(g) A clinic operated by, or affiliated with, any institution of learning which teaches a recognized healing art and is approved by the state board or commission vested with responsibility for regulation of the practice of that healing art.

(h) A clinic that is operated on an intermittent basis by a local health department or by a community or free clinic. Such an intermittent or satellite clinic shall, however meet all requirements of law, including administrative regulations, pertaining to fire and life safety.

(i) The offices of physicians in group practice who provide a preponderance of their services to members of a comprehensive group practice prepayment health care service plan subject to Chapter 2.2 (commencing with Section 1340) of Division 2.

(j) Student health centers operated by public institutions of higher education.

(k) Nonprofit speech and hearing centers, as defined in Section 1201.5. Any nonprofit speech and hearing clinic desiring an exemption under this subdivision shall make application therefor to the State Director of Health Services, who shall grant the exception to any facility meeting the criteria of Section 1201.5. Notwithstanding the licensure exemption contained in this subdivision, a nonprofit speech and hearing center shall be deemed to be an organized outpatient clinic for purposes of qualifying for reimbursement as a rehabilitation center under the Medi-Cal Act, Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(l) A clinic operated by 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, which conducts medical research and health education and provides health care to its patients through a group of 40 or more physicians and surgeons, who are independent contractors representing not less than 10 board-certified specialties, and not less than two-thirds of whom practice on a full-time basis at the clinic.

SEC. 2.7. Section 1206 of the Health and Safety Code is amended to read:

1206. The provisions of this chapter do not apply to the following types of entities, which shall not be subject to or eligible for, clinic licensure:

(a) Except with respect to specialty clinics specified in paragraph (2) of subdivision (b) of Section 1204, any place or establishment

owned or leased and operated as a clinic or office by one or more licensed health care practitioners and used as an office for the practice of the profession, within the scope of their license, regardless of the name used publicly to identify such place or establishment.

(b) Any clinic directly conducted, maintained or operated by the United States or by any of its departments, officers, or agencies, and any clinic which is directly conducted, maintained, or operated by this state or by any of its political subdivisions or districts, or by any city. Nothing in this subdivision shall preclude the state department from adopting regulations which utilize clinic licensing standards as eligibility criteria for participation in programs funded wholly or partially under Title XVIII or XIX of the federal Social Security Act.

(c) Any clinic conducted, maintained or operated by a federally recognized Indian tribe or tribal organization, as defined in Section 450 or 1601 of Title 25 of the United States Code, and which is located on land recognized as tribal land by the federal government.

(d) Clinics conducted, operated, or maintained as outpatient departments of hospitals.

(e) Any facility licensed as a health facility under the provisions of Chapter 2 (commencing with Section 1250) of this division.

(f) Any freestanding clinical or pathological laboratory licensed under the provisions of Chapter 3 (commencing with Section 1200) of Division 2 of the Business and Professions Code.

(g) A clinic operated by, or affiliated with, any institution of learning which teaches a recognized healing art and is approved by the state board or commission vested with responsibility for regulation of the practice of that healing art.

(h) A clinic that is operated on an intermittent basis less than 20 hours per week by a community or free clinic. Such an intermittent or satellite clinic shall, however meet all requirements of law, including administrative regulations, pertaining to fire and life safety.

Nothing in this chapter shall prohibit a licensed clinic from making an application to the department to operate an intermittent clinic and apply for waivers authorized pursuant to Section 1217.

(i) The offices of physicians in group practice who provide a preponderance of their services to members of a comprehensive group practice prepayment health care service plan subject to Chapter 2.2 (commencing with Section 1340) of Division 2.

(j) Student health centers operated by public institutions of higher education.

(k) Nonprofit speech and hearing centers, as defined in Section 1201.5. Any nonprofit speech and hearing clinic desiring an exemption under this subdivision shall make application therefor to the State Director of Health Services, who shall grant the exception to any facility meeting the criteria of Section 1201.5. Notwithstanding the licensure exemption contained in this subdivision, a nonprofit speech and hearing center shall be deemed to be an organized

outpatient clinic for purposes of qualifying for reimbursement as a rehabilitation center under the Medi-Cal Act, Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(1) A clinic operated by 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, which conducts medical research and health education and provides health care to its patients through a group of 40 or more physicians and surgeons, who are independent contractors representing not less than 10 board-certified specialties, and not less than two-thirds of whom practice on a full-time basis at the clinic.

SEC. 3. It is the intent of the Legislature that if this bill and Senate Bill 1418 or Assembly Bill 2252, or both, are chaptered and become effective January 1, 1981, each of the bills amend Section 1206 of the Health and Safety 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 Senate Bill 1418 are both chaptered and become effective January 1, 1981, both bills amend Section 1206 of the Health and Safety Code, but Assembly Bill 2252 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Senate Bill 1418, the amendments proposed by both bills shall be given effect and incorporated in Section 1206 in the form set forth in Section 2.5 of this act. Therefore, if this bill and Senate Bill 1418 are both chaptered and become effective January 1, 1981, both bills amend Section 1206, this bill is chaptered after Senate Bill 1418 and Assembly Bill 2252 is not chaptered or as chaptered does not amend that section, Section 2.5 of this act shall be operative and Sections 2 and 2.7 of this act shall not become operative.

(2) If this bill and Assembly Bill 2252 are both chaptered and become effective January 1, 1981, both bills amend Section 1206 of the Health and Safety Code, but Senate Bill 1418 is not chaptered or as chaptered does not amend that section, and this bill is chaptered after Assembly Bill 2252, the amendments proposed by both bills shall be given effect and incorporated in Section 1206 in the form set forth in Section 2.7 of this act. Therefore, if this bill and Assembly Bill 2252 are both chaptered and become effective January 1, 1981, both bills amend Section 1206, this bill is chaptered after Assembly Bill 2252, and Senate Bill 1418 is not chaptered or as chaptered does not amend that section, Section 2.7 shall be operative and Sections 2 and 2.5 of this act shall not become operative.

(3) If this bill and Senate Bill 1418 and Assembly Bill 2252 are all chaptered and become effective January 1, 1981, all three bills amend Section 1206 of the Health and Safety Code, and this bill is chaptered after Senate Bill 1418 and Assembly Bill 2252, the amendments proposed by all three bills shall be given effect and incorporated in Section 1206 in the form set forth in Section 2.7 of this act. Therefore,

if this bill and Senate Bill 1418 and Assembly Bill 2252 are all chaptered and become effective January 1, 1981, all three bills amend Section 1206 of the Health and Safety Code, and this bill is chaptered after Senate Bill 1418 and Assembly Bill 2252, Section 2.7 of this act shall be operative and Sections 2 and 2.5 of this act shall not become operative.

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## CHAPTER 1317

An act to add Section 1214.1 to the Health and Safety Code, relating to clinics.

[Approved by Governor September 30, 1980. Filed with  
Secretary of State September 30, 1980.]

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

SECTION 1. Section 1214.1 is added to the Health and Safety Code, to read:

1214.1. Notwithstanding the provisions of Section 1214, each application for a surgical clinic under this chapter for an initial license, renewal license, license upon change of ownership, or special permit shall be accompanied by an annual fee of three hundred dollars (\$300) plus an amount equal to 0.0003 times the clinic's operating cost for the last completed fiscal year.

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## CHAPTER 1318

An act to amend Section 188.8 of, and to add Sections 188.9 and 189.1 to, the Streets and Highways Code, relating to transportation.

[Approved by Governor September 30, 1980. Filed with  
Secretary of State September 30, 1980.]

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

SECTION 1. Section 188.8 of the Streets and Highways Code is amended to read:

188.8. Out of the money expended pursuant to Section 188, the commission shall allocate and the department shall expend, or cause to be expended, in each state transportation district of County Group No. 1 and in each state transportation district of County Group No. 2 during the period commencing July 1, 1971, and ending June 30, 1975, and for each period of four years, thereafter, not less than an amount computed as follows:

(a) The commission shall compute for each period of four years an amount equal to 70 percent of the moneys to be expended in County

Groups Nos. 1 and 2, respectively, as provided in Section 188.

(b) From the amount computed for County Group No. 1 in subdivision (a) for the period ending June 30, 1979, the commission shall determine the minimum expenditure for each transportation district in the group by applying the percentages specified on page 13798 of the Assembly Daily Journal for June 5, 1974.

(c) From the amount computed for County Group No. 2 in subdivision (a) for the period ending June 30, 1979, the commission shall determine the minimum expenditure for each transportation district in the group by applying the percentages specified on page 13798 of the Assembly Daily Journal for June 5, 1974.

For purposes of this section, state transportation districts shall be identical to those state highway districts established by the department for administrative purposes as of June 30, 1960, except as provided in Section 189.1.

For each four-year period subsequent to June 30, 1983, a percentage for each state transportation district as listed in subdivisions (b) and (c) shall be computed on the basis of an estimate of existing state highway and exclusive public mass transit guideway construction needs to be funded from the State Highway Account in the State Transportation Fund. The revised percentages shall be used in computing minimum expenditures for each district. The first such estimate of construction needs shall be filed with the Legislature and be published in the respective Journals of the Senate and the Assembly not later than January 15, 1981, and shall govern minimum expenditure computations for the period commencing July 1, 1983, and ending June 30, 1987. Not later than January 15, 1985, and each four years thereafter, a new estimate shall be filed and published and shall govern the minimum expenditure computations for the four-year period commencing July 1, 1987, and for each succeeding four-year period.

Except as provided in this paragraph, the entire obligation under a contract awarded or a day labor project commenced during any of the periods shall be deemed an expenditure within the period in which such contract was awarded or day labor project commenced. Obligations under contracts which have been awarded or day labor projects which have been commenced but which are to be budgeted over more than one fiscal year pursuant to Section 170, shall be deemed expenditures in each of the fiscal years in which the work is to be performed in an amount equal to the final amount budgeted for each such fiscal year for such work.

SEC. 2. Section 188.9 is added to the Streets and Highways Code, to read:

188.9. Notwithstanding any other provision of law, any increases in the discretionary funds allocated by the commission under Section 188.8 to Orange County, as the result of the creation of State Transportation District 12, over the amount specified for Orange County in the 1980 State Transportation Improvement Program shall not decrease the amount of discretionary funds allocated by the

commission to any state transportation district except State Transportation District 7. The allocation of discretionary funds to District 7 shall not be increased for the purpose of allowing increased allocations to District 12.

SEC. 3. Section 189.1 is added to the Streets and Highways Code, to read:

189.1. (a) Notwithstanding any other provision of law, State Transportation District 12, consisting of the County of Orange, is hereby created on July 1, 1983.

(b) After the creation of State Transportation District 12, the minimum expenditure for former State Transportation District 7 shall continue to be determined under Section 188.8 in the same manner. However, after the determination has been made under Section 188.8 for the former State Transportation District 7, the minimum expenditure shall be divided between State Transportation District 7 and State Transportation District 12. The minimum expenditure for State Transportation District 12 and Ventura County under this section shall be determined by the needs of Orange County and Ventura County, respectively, which are included in determining the needs of former District 7 under Section 188.8. The minimum expenditure for District 7 shall then be reduced by the minimum expenditure for District 12.

The minimum expenditures for Ventura County and Los Angeles County under this section shall also be determined by the needs of both counties which are included in determining the needs of former District 7 under Section 188.8.

On and after July 1, 1983, out of the money expended pursuant to Section 188.8, the commission shall allocate and the department shall expend, or cause to be expended, moneys in District 12, Los Angeles County and Ventura County in accordance with this section, except as provided in subdivision (c).

(c) The commission shall not delete, delay, or decrease the amount allocated to any state highway or exclusive public mass transit guideway project included in the 1980 State Transportation Improvement Program and any subsequent state transportation improvement program in any state transportation district, except District 7, on the basis of the creation of District 12. If the allocation of funds pursuant to subdivision (b) results in such deletions, delays, or decreases, the commission, notwithstanding Section 188.8 and subdivision (b), shall adjust the allocations to or within Districts 7 and 12 to ensure that such a result shall not occur.

(d) The implementation of this section shall not affect the allocation of funds pursuant to Section 188.

(e) The sole purpose of this section is to establish minimum expenditure requirements for Districts 7 and 12. This section shall not require that a separate district organization, staff, or facilities be established in the County of Orange.

## CHAPTER 1319

An act to amend Section 781 of the Welfare and Institutions Code, relating to juvenile court law.

[Approved by Governor September 30, 1980. Filed with Secretary of State September 30, 1980.]

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

**SECTION 1.** Section 781 of the Welfare and Institutions Code is amended to read:

781. (a) In any case in which a petition has been filed with a juvenile court to commence proceedings to adjudge a person a ward of the court, in any case in which a person is cited to appear before a probation officer or is taken before a probation officer pursuant to Section 626, or in any case in which a minor is taken before any officer of a law enforcement agency, the person or the county probation officer may, five years or more after the jurisdiction of the juvenile court has terminated as to the person, or, in a case in which no petition is filed, five years or more after the person was cited to appear before a probation officer or was taken before a probation officer pursuant to Section 626 or was taken before any officer of a law enforcement agency, or, in any case, at any time after the person has reached the age of 18 years, petition the court for sealing of the records, including records of arrest, relating to the person's case, in the custody of the juvenile court and probation officer and any other agencies, including law enforcement agencies, and public officials as petitioner alleges, in his or her petition, to have custody of such records. The court shall notify the district attorney of the county and the county probation officer, if he or she is not the petitioner of the petition, and such district attorney or probation officer or any of their deputies or any other person having relevant evidence may testify at the hearing on the petition. If, after hearing, the court finds that since such termination of jurisdiction or action pursuant to Section 626, as the case may be, he or she has not been convicted of a felony or of any misdemeanor involving moral turpitude and that rehabilitation has been attained to the satisfaction of the court, it shall order sealed all records, papers, and exhibits in the person's case in the custody of the juvenile court, including the juvenile court record, minute book entries, and entries on dockets, and other records relating to the case in the custody of such other agencies and officials as are named in the order. Thereafter, the proceedings in such case shall be deemed never to have occurred, and the person may properly reply accordingly to any inquiry about the events, records of which are ordered sealed. The court shall send a copy of the order to each agency and official named therein, and each such agency and official shall seal records in its custody as directed by the order, shall advise the court of its compliance, and thereupon shall

seal the copy of the court's order for sealing of records that it, he, or she received. The person who is the subject of records sealed pursuant to this section may petition the superior court to permit inspection of the records by persons named in the petition, and the superior court may so order. Otherwise, except as provided in subdivision (b), such records shall not be open to inspection.

(b) In any action or proceeding based upon defamation, a court, upon a showing of good cause, may order any records sealed under this section to be opened and admitted into evidence. The records shall be confidential and shall be available for inspection only by the court, jury, parties, counsel for the parties, and any other person who is authorized by the court to inspect them. Upon the judgment in the action or proceeding becoming final, the court shall order the records sealed.

(c) (1) The provisions of subdivision (a) shall not apply to Department of Motor Vehicle records of any convictions for offenses under the Vehicle Code or any local ordinance relating to the operation, stopping and standing, or parking of a vehicle where the record of any such conviction would be a public record under Section 1808 of the Vehicle Code. However, if a court orders a case record containing any such conviction to be sealed under this section, and if the Department of Motor Vehicles maintains a public record of such a conviction, the court shall notify the Department of Motor Vehicles of the sealing and the department shall advise the court of its receipt of the notice.

Notwithstanding any other provision of law, subsequent to such notification, the Department of Motor Vehicles shall allow access to its record of such convictions only to the subject of the record and to insurers which have been granted requester code numbers by the department. Any insurer to which such a record of conviction is disclosed, when such a conviction record has otherwise been sealed under this section, shall be given notice of the sealing when the record is disclosed to the insurer. The insurer may use the information contained in the record for purposes of determining eligibility for insurance and insurance rates for the subject of the record, and the information shall not be used for any other purpose nor shall it be disclosed by an insurer to any person or party not having access to the record.

(2) This subdivision shall not be construed as preventing the sealing of any record which is maintained by any agency or party other than the Department of Motor Vehicles.

(3) This subdivision shall not be construed as affecting the procedures or authority of the Department of Motor Vehicles for purging department records.

SEC. 2. Section 781 of the Welfare and Institutions Code is amended to read:

781. (a) In any case in which a petition has been filed with a juvenile court to commence proceedings to adjudge a person a ward of the court, in any case in which a person is cited to appear before

a probation officer or is taken before a probation officer pursuant to Section 626, or in any case in which a minor is taken before any officer of a law enforcement agency, the person or the county probation officer may, five years or more after the jurisdiction of the juvenile court has terminated as to the person, or, in a case in which no petition is filed, five years or more after the person was cited to appear before a probation officer or was taken before a probation officer pursuant to Section 626 or was taken before any officer of a law enforcement agency, or, in any case, at any time after the person has reached the age of 18 years, petition the court for sealing of the records, including records of arrest, relating to the person's case, in the custody of the juvenile court and probation officer and any other agencies, including law enforcement agencies, and public officials as petitioner alleges, in his or her petition, to have custody of such records. The court shall notify the district attorney of the county and the county probation officer, if he or she is not the petitioner of the petition, and such district attorney or probation officer or any of their deputies or any other person having relevant evidence may testify at the hearing on the petition. If, after hearing, the court finds that since such termination of jurisdiction or action pursuant to Section 626, as the case may be, he or she has not been convicted of a felony or of any misdemeanor involving moral turpitude and that rehabilitation has been attained to the satisfaction of the court, it shall order sealed all records, papers, and exhibits in the person's case in the custody of the juvenile court, including the juvenile court record, minute book entries, and entries on dockets, and other records relating to the case in the custody of such other agencies and officials as are named in the order. Thereafter, the proceedings in such case shall be deemed never to have occurred, and the person may properly reply accordingly to any inquiry about the events, records of which are ordered sealed. The court shall send a copy of the order to each agency and official named therein, directing the agency to seal its records and five years thereafter to destroy the sealed records. Each such agency and official shall seal records in its custody as directed by the order, shall advise the court of its compliance, and thereupon shall seal the copy of the court's order for sealing of records that it, he, or she received. The person who is the subject of records sealed pursuant to this section may petition the superior court to permit inspection of the records by persons named in the petition, and the superior court may so order. Otherwise, except as provided in subdivision (b), such records shall not be open to inspection.

(b) In any action or proceeding based upon defamation, a court, upon a showing of good cause, may order any records sealed under this section to be opened and admitted into evidence. The records shall be confidential and shall be available for inspection only by the court, jury, parties, counsel for the parties, and any other person who is authorized by the court to inspect them. Upon the judgment in the action or proceeding becoming final, the court shall order the

records sealed.

(c) (1) The provisions of subdivision (a) shall not apply to Department of Motor Vehicle records of any convictions for offenses under the Vehicle Code or any local ordinance relating to the operation, stopping and standing, or parking of a vehicle where the record of any such conviction would be a public record under Section 1808 of the Vehicle Code. However, if a court orders a case record containing any such conviction to be sealed under this section, and if the Department of Motor Vehicles maintains a public record of such a conviction, the court shall notify the Department of Motor Vehicles of the sealing and the department shall advise the court of its receipt of the notice.

Notwithstanding any other provision of law, subsequent to such notification, the Department of Motor Vehicles shall allow access to its record of such convictions only to the subject of the record and to insurers which have been granted requester code numbers by the department. Any insurer to which such a record of conviction is disclosed, when such a conviction record has otherwise been sealed under this section, shall be given notice of the sealing when the record is disclosed to the insurer. The insurer may use the information contained in the record for purposes of determining eligibility for insurance and insurance rates for the subject of the record, and the information shall not be used for any other purpose nor shall it be disclosed by an insurer to any person or party not having access to the record.

(2) This subdivision shall not be construed as preventing the sealing of any record which is maintained by any agency or party other than the Department of Motor Vehicles.

(3) This subdivision shall not be construed as affecting the procedures or authority of the Department of Motor Vehicles for purging department records.

(d) When the person who is the subject of the juvenile court records sealed pursuant to this section reaches the age of 38, the court shall order the destruction of the sealed juvenile court record unless for good cause the court determines that the juvenile court record shall be retained. Any other agency in possession of sealed records shall destroy their records when the person who is the subject of the particular record reaches the age of 38.

SEC. 3. It is the intent of the Legislature, if this bill and Senate Bill 1713 are both chaptered and become effective January 1, 1981, both bills amend Section 781 of the Welfare and Institutions Code, and this bill is chaptered after Senate Bill 1713, that the amendments to Section 781 proposed by both bills be given effect and incorporated in Section 781 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 1713 are both chaptered and become effective January 1, 1981, both amend Section 781, and this bill is chaptered after Senate Bill 1713, in which case Section 1 of this act shall not become operative.

## CHAPTER 1320

An act to amend Sections 11580.1 and 11580.2 of, and to add Section 11580.25 to, the Insurance Code, relating to insurance, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1980 Filed with  
Secretary of State September 30, 1980.]

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

**SECTION 1.** Section 11580.1 of the Insurance Code is amended to read:

11580.1. (a) No policy of automobile liability insurance described in Section 16054 of the Vehicle Code covering liability arising out of the ownership, maintenance, or use of any motor vehicle shall be issued or delivered in this state on or after the effective date of this section unless it contains the provisions set forth in subdivision (b). However, none of the requirements of subdivision (b) shall apply to the insurance afforded under any such policy (1) to the extent that such insurance exceeds the limits specified in subdivision (a) of Section 16056 of the Vehicle Code, or (2) if such policy contains an underlying insurance requirement, or provides for a retained limit of self-insurance, equal to or greater than the limits specified in subdivision (a) of Section 16056 of the Vehicle Code.

(b) Every policy of automobile liability insurance to which subdivision (a) applies shall contain all of the following provisions:

(1) Coverage limits not less than the limits specified in subdivision (a) of Section 16056 of the Vehicle Code.

(2) Designation by explicit description of, or appropriate reference to, the motor vehicles or class of motor vehicles to which coverage is specifically granted.

(3) Designation by explicit description of the purposes for which coverage for such motor vehicles is specifically excluded.

(4) Provision affording insurance to the named insured with respect to any motor vehicle covered by such policy, and to the same extent that insurance is afforded to the named insured, to any other person using, or legally responsible for the use of, such motor vehicle, provided such use is by the named insured or with his permission, express or implied, and within the scope of such permission, except that: (i) with regard to insurance afforded for the loading or unloading of any such motor vehicle, the insurance may be limited to apply only to the named insured, a relative of the named insured who is a resident of the named insured's household, a lessee or bailee of the motor vehicle, or an employee of any such person; and (ii) the insurance afforded to any person other than the named insured need not apply to: (A) any employee with respect to bodily injury sustained by a fellow employee injured in the scope and course of his employment, or (B) any person, or to any agent or employee

thereof, employed or otherwise engaged in the business of selling, repairing, servicing, delivering, testing, road testing, parking, or storing automobiles with respect to any accident arising out of the maintenance or use of a motor vehicle in connection therewith.

(c) In addition to any exclusion as provided in paragraph (3) of subdivision (b), the insurance afforded by any such policy of automobile liability insurance to which subdivision (a) applies may, by appropriate policy provision, be made inapplicable to any or all of the following:

- (1) Liability assumed by the insured under contract.
- (2) Liability for bodily injury or property damage caused intentionally by or at the direction of the insured.
- (3) Liability imposed upon or assumed by the insured under any workers' compensation law.
- (4) Liability for bodily injury to any employee of the insured arising out of and in the course of his employment.
- (5) Liability for bodily injury to an insured.
- (6) Liability for damage to property owned, rented to, transported by, or in charge of, an insured.
- (7) Liability for any bodily injury or property damage with respect to which insurance is or can be afforded under a nuclear energy liability policy.
- (8) Any motor vehicle or class of motor vehicles, as described or designated in the policy, with respect to which coverage is explicitly excluded, in whole or in part.

The term "the insured" as used in paragraphs (1), (2), (3), and (4) shall mean only that insured under the policy against whom the particular claim is made or suit brought. The term "an insured" as used in paragraphs (5) and (6) shall mean any insured under the policy.

(d) Notwithstanding the provisions of paragraph (4) of subdivision (b), or the provisions of Article 2 (commencing with Section 16450) of Chapter 3 of Division 7, or Article 2 (commencing with Section 17150) of Chapter 1 of Division 9, of the Vehicle Code, the insurer and any named insured may, by the terms of any policy of automobile liability insurance to which subdivision (a) applies, or by a separate writing relating thereto, agree as to either or both of the following limitations, such agreement to be binding upon every insured to whom such policy applies and upon every third party claimant:

(1) That coverage and the insurer's obligation to defend under such policy shall not apply nor accrue to the benefit of any insured or any third party claimant while any insured motor vehicle is being used or operated by a natural person or persons designated by name. The insurer shall have an obligation to defend the named insured when all of the following apply to such designated natural person:

1. He or she is a resident of the same household as the named insured.
2. As a result of operating the insured motor vehicle of the named

insured, he or she is jointly sued with the named insured.

3. He or she is an insured under a separate automobile liability insurance policy issued to him as a named insured, which policy does not provide a defense to the named insured.

Such agreement shall remain in force as long as the policy remains in force, and shall apply to any continuation, renewal, or replacement of such policy by the named insured, or reinstatement of such policy within 30 days of any lapse thereof.

(2) That with regard to any such policy issued to a named insured engaged in the business of selling, repairing, servicing, delivering, testing, road testing, parking, or storing automobiles, coverage shall not apply to any person other than the named insured or his agent or employee, except to the extent that the limits of liability of any other valid and collectible insurance available to such person are not equal to the limits of liability specified in subdivision (a) of Section 16056 of the Vehicle Code.

(e) Nothing in this section or in Section 16054 or 16450 of the Vehicle Code shall be construed to constitute a homeowner's policy, personal and residence liability policy, personal and farm liability policy, general liability policy, comprehensive personal liability policy, manufacturers' and contractors' policy, premises liability policy, special multiperil policy, or any policy or endorsement where automobile liability coverage is offered as incidental to some other basic coverage as an "automobile liability policy" within the meaning of Section 16054 of the Vehicle Code, or as a "motor vehicle liability policy" within the meaning of Section 16450 of the Vehicle Code, nor shall any provision of this section apply to a policy which provides insurance covering liability arising out of the ownership, maintenance, or use of any motor vehicle in the Republic of Mexico issued or delivered in this state by a nonadmitted Mexican insurer, notwithstanding that any such policy may provide automobile or motor vehicle liability coverage on insured premises or the ways immediately adjoining.

(f) On and after January 1, 1976, no policy of automobile liability insurance described in subdivision (a) shall be issued, amended, or renewed in this state if it contains any provision which expressly or impliedly excludes from coverage under such policy the operation or use of an insured motor vehicle by the named insured in the performance of volunteer services for a nonprofit charitable organization or governmental agency by providing social service transportation. 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 the following:

(1) For the 1980-81 fiscal year, the maximum rate authorized by the State Board of Control, which shall also be known as the "base rate."

(2) For each fiscal year thereafter, the greater of either (A) the maximum rate authorized by the State Board of Control or (B) the

base rate as adjusted by the California Consumer Price Index.

No policy of insurance issued under this section may be canceled by an insurer solely for the reason that the named insured is performing volunteer services for a nonprofit charitable organization or governmental agency consisting of providing social service transportation.

For the purposes of this section, "social service transportation" means transportation services provided by private nonprofit organizations or individuals to either individuals who are senior citizens or individuals or groups of individuals who have special transportation needs because of physical or mental conditions and supported in whole or in part by funding from private or public agencies.

(g) Notwithstanding the provisions of paragraph (4) of subdivision (b) of this section, or the provisions of Article 2 (commencing with Section 16450) of Chapter 3 of Division 7 of, or Article 2 (commencing with Section 17150) of Chapter 1 of Division 9 of, the Vehicle Code, a Mexican nonadmitted insurer and any named insured may, by the terms of any policy of automobile insurance for use solely in the Republic of Mexico to which subdivision (a) applies, or by a separate writing relating thereto, agree to the limitation that coverage under such policy shall not apply to any person riding in or occupying a vehicle owned by the insured or driven by another person with the permission of the insured. Such agreement shall be binding upon every insured to whom any such policy applies and upon any third party claimant.

(h) No policy of automobile insurance which provides insurance covering liability arising out of the ownership, maintenance or use of any motor vehicle solely in the Republic of Mexico issued by a nonadmitted Mexican insurance company, shall be subject to, or provide coverage for, those coverages provided in Section 11580.2.

SEC. 2. 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; 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 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, 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:

(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, 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, "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 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 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 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 any 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 social service transportation as defined in subdivision (f) of Section 11580.1. This subdivision shall apply only to policies of insurance issued, amended, or renewed on or after January 1, 1976.

SEC. 2.5. 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 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 social service transportation as defined in subdivision (f) of Section 11580.1. This subdivision shall apply only to policies of insurance issued, amended, or renewed on or after January 1, 1976.

SEC. 3. Section 11580.25 is added to the Insurance Code, to read:

11580.25. No motor vehicle insured pursuant to a policy of insurance issued under Section 11580.1 or 11580.2 shall be classified as a common carrier, livery, or for-hire vehicle solely for the reason that the named insured is performing volunteer services for a nonprofit charitable organization or governmental agency consisting of providing social service transportation as defined in subdivision (f) of Section 11580.1.

SEC. 3.5. 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 2 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 2 of this act, be further amended in the form set forth in Section 2.5 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 2.5 of this act shall become operative on the effective date of Assembly Bill 2418.

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 ensure continued assistance to the less fortunate and the sick provided by volunteers it is necessary that this act go into immediate effect.

## CHAPTER 1321

An act to amend Section 11580.2 of the Insurance Code, relating to motor vehicle insurance.

[Approved by Governor September 30, 1980. Filed with Secretary of State September 30, 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 limits specified in subdivision (m) and in no case less than 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, or agree to provide such coverage in an amount less than that required by subdivision (m) but not less than the financial responsibility requirements specified in Section 16056 of the Vehicle Code. Any such agreements by any named insured or agreement for the amount of coverage 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, or agree to provide such coverage in an amount less than that required by subdivision (m) of Section 11580.2 of the Insurance Code, but not less than the financial responsibility requirements. Uninsured motorists coverage insures the insured, his heirs, or legal representatives for all sums within the limits established by law, 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:

(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, 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 (\$.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.

(m) Coverage provided under an uninsured motorist endorsement or coverage shall be offered with coverage limits equal to the limits of liability for bodily injury in the underlying policy of insurance, but shall not be required to be offered with limits in excess of the following amounts:

(1) A limit of thirty thousand dollars (\$30,000) because of bodily injury to or death of one person in any one accident.

(2) Subject to the limit for one person set forth in paragraph (1), a limit of sixty thousand dollars (\$60,000) because of bodily injury to or death of two or more persons in any one accident.

SEC. 2. 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 limits specified in subdivision (m) and in no case less than 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 or agree to provide such coverage in an amount less than that required by subdivision (m) but not less than

the financial responsibility requirements specified in Section 16056 of the Vehicle Code. Any such agreements by any named insured or agreement for the amount of coverage 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 or agree to provide such coverage in an amount less than that required by subdivision (m) of Section 11580.2 of the Insurance Code, but not less than the financial responsibility requirements. Uninsured motorists coverage insures the insured, his heirs, or legal representatives for all sums within the limits established by law, 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:

(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, 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 social service transportation as defined in subdivision (f) of Section 11580.1. This subdivision shall apply only to policies of insurance issued, amended, or renewed on or after January 1, 1976.

(m) Coverage provided under an uninsured motorist endorsement or coverage shall be offered with coverage limits equal to the limits of liability for bodily injury in the underlying policy of insurance, but shall not be required to be offered with limits in excess of the following amounts:

(1) A limit of thirty thousand dollars (\$30,000) because of bodily injury to or death of one person in any one accident.

(2) Subject to the limit for one person set forth in paragraph (1), a limit of sixty thousand dollars (\$60,000) because of bodily injury to or death of two or more persons in any one accident.

SEC. 3. It is the intent of the Legislature, if this bill and Assembly Bill 3034 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 3034, that Section 11580.2 of the Insurance Code, as amended by Section 2.5 of Assembly Bill 3034, be further amended on the operative date of this act in the form set forth in Section 2 of this act to incorporate the changes in Section 11580.2 proposed by this bill. Therefore, if this bill and Assembly Bill 3034 are both chaptered and become effective on or before January 1, 1981, and Assembly Bill 3034 is chaptered before this bill and amends Section 11580.2, Section 2 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. The provisions of this act shall become operative on January 1, 1982, and shall only affect policies issued or renewed on or after this date. Notwithstanding the provisions of this act, an

agreement to delete coverage pursuant to paragraph (1) or (2) of subdivision (a) of Section 11580.2, executed prior to the operative date of this act, shall remain in full force and effect.

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## CHAPTER 1322

An act to add Section 1797.179 to the Health and Safety Code, and to amend Section 14132 of, and to add Section 14106.6 to, the Welfare and Institutions Code, relating to public social services, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1980. Filed with  
Secretary of State September 30, 1980 ]

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

**SECTION 1.** The purpose of Sections 2 and 3 of this act, which respectively add Section 14106.6 to the Welfare and Institutions Code and amend Section 14132 of that code, is to give fiscal relief to local governments at a time when such governments are severely limited in their ability to raise funds for the continued provision of vital public safety services, such as paramedic services and, further, it is the intent of Sections 2 and 3 with respect to paramedic services that such relief does not necessitate increases in the overall costs to state government.

The Legislature finds and declares that local governments are subsidizing the provision of paramedic services to indigents, including recipients eligible for the Medi-Cal program. Currently, the Medi-Cal program fails to make reimbursement for the provision of paramedic services, resulting in increased costs to local government. To the degree that paramedic services are provided to persons eligible for the Medi-Cal program, the state and federal government should pay for these services, and the director should make reasonable reimbursement. Further, it is the intent of Sections 2 and 3 with respect to paramedic services that there be no increase in overall state expenditures, since the increased state costs in Medi-Cal reimbursement for paramedic services should be offset by reductions in state costs of supporting local government in the aftermath of the passage of Proposition 13 at the June 6, 1978, statewide election.

**SEC. 1.5.** Section 1797.179 is added to the Health and Safety Code, to read:

**1797.179.** Notwithstanding any other provision of law, and to the extent federal financial participation is available, any city, county or special district providing paramedic services as set forth in Section 1797.172, shall reimburse the Health Care Deposit Fund for the state costs of paying such medical claims. Funds allocated to the county from the County Health Services Fund pursuant to Part 4.5

(commencing with Section 16700) of Division 9 of the Welfare and Institutions Code may be utilized by the county or city to make such reimbursement.

SEC. 2. Section 14106.6 is added to the Welfare and Institutions Code, to read:

14106.6. The director shall establish and update annually a rate schedule of reimbursement for paramedic services which provides reimbursement based upon reasonable cost standards of the department.

Notwithstanding any other provision of law, and to the extent federal financial participation is available, any city, county, or special district providing paramedic services as set forth in subdivision (s) of Section 14132, shall reimburse the Health Care Deposit Fund for the state costs of paying such medical claims. Funds allocated to the county from the County Health Services Fund pursuant to Part 4.5 (commencing with Section 16700) of Division 9 of the Welfare and Institutions Code may be utilized by the county or city to make such reimbursement. Nothing in this chapter shall be construed to require a city, county, or special district providing, or contracting for, paramedic services as part of a program established under Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code, to seek Medi-Cal reimbursement for services rendered to eligible Medi-Cal recipients.

This section shall be in effect only to the extent federal financial participation is available.

SEC. 3. Section 14132 of the Welfare and Institutions Code is amended to read:

14132. The following is the schedule of benefits under this chapter:

(a) Outpatient services are covered as follows:

Physician, hospital or clinic outpatient, surgical center, optometric, chiropractic, psychology, podiatric, occupational therapy, physical therapy, speech therapy, audiology, acupuncture to the extent federal matching funds are provided for acupuncture, and services of persons rendering treatment by prayer or healing by spiritual means in the practice of any church or religious denomination insofar as these can be encompassed by federal participation under an approved plan, subject to utilization controls.

(b) Inpatient hospital services, including, but not limited to, physician and podiatric services, physical therapy and occupational therapy, are covered subject to utilization controls.

(c) Skilled nursing facility services, including podiatry and physician services, and prescribed drugs, as described in subdivision (d), are covered subject to utilization controls. Physical therapy, occupational therapy, speech therapy, and audiology services for patients in skilled nursing facilities are covered subject to utilization controls.

(d) Purchase of prescribed drugs is covered subject to the Medi-Cal Drug Formulary and utilization controls.

(e) Outpatient dialysis services and home hemodialysis services, including physician services, medical supplies, drugs and equipment required for dialysis, are covered, subject to utilization controls.

(f) Anesthesiologist services when provided as part of an outpatient medical procedure, nurse anesthetists services when rendered by an inpatient or outpatient setting under conditions set forth by the director, outpatient laboratory services, and X-ray services are covered to the extent prescribed.

(g) Blood and blood derivatives are covered.

(h) Emergency and essential diagnostic and restorative dental services, except for orthodontic, fixed bridgework, and partial dentures that are not necessary for balance of a complete artificial denture, are covered, subject to utilization controls. The utilization controls shall allow emergency and essential diagnostic and restorative dental services and prostheses that are necessary to prevent a significant disability or to replace previously furnished prostheses which are lost or destroyed due to circumstances beyond the beneficiary's control. Notwithstanding the foregoing, the director may by regulation provide for certain fixed artificial dentures necessary for obtaining employment or for medical conditions which preclude the use of removable dental prostheses, and for orthodontic services in cleft palate deformities administered by the department's crippled children services program.

(i) Medical transportation is covered, subject to utilization controls.

(j) Home health care services are covered, subject to utilization controls.

(k) Prosthetic and orthotic devices and eyeglasses are covered, subject to utilization controls. Utilization controls shall allow replacement of prosthetic and orthotic devices and eyeglasses necessary because of loss or destruction due to circumstances beyond the beneficiary's control. Frame styles for eyeglasses replaced pursuant to this subdivision shall not change more than once every two years, unless the department so directs.

Orthopedic and conventional shoes are covered when provided by a prosthetic and orthotic supplier on the prescription of a physician and when at least one of the shoes will be attached to a prosthesis or brace, subject to utilization controls. Modification of stock conventional or orthopedic shoes when medically indicated, is covered subject to utilization controls. When there is a clearly established medical need that cannot be satisfied by the modification of stock conventional or orthopedic shoes, custom-made orthopedic shoes are covered, subject to utilization controls.

(l) Hearing aids are covered, subject to utilization controls. Utilization controls shall allow replacement of hearing aids necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(m) Durable medical equipment and medical supplies are covered, subject to utilization controls. The utilization controls shall

allow the replacement of durable medical equipment and medical supplies when necessary because of loss or destruction due to circumstances beyond the beneficiary's control.

(n) Intermediate care facility services, including physician services, and prescribed drugs as described in subdivision (d) are covered, subject to utilization controls. Physical therapy, occupational therapy, speech therapy and audiology services for patients in intermediate care facilities are covered subject to utilization controls.

(o) Family planning services are covered, subject to utilization controls.

(p) Inpatient intensive rehabilitation hospital services in a general acute care hospital are covered, subject to utilization controls, when the following criteria are met:

(1) A patient with a permanent disability or severe impairment requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to develop function beyond the limited amount that would occur in the normal course of recovery; or

(2) A patient with a chronic or progressive disease requires an inpatient intensive rehabilitation hospital program as described in Section 14064 to maintain the patient's present functional level as long as possible.

(q) Adult day health care is covered in accordance with the provisions of Chapter 8.7 (commencing with Section 14520) of this part.

(r) Application of fluoride, or other appropriate fluoride treatment as defined by the department, and other prophylaxis treatment for children 17 years of age and under are covered.

(s) Paramedic services performed by a city, county, or special district, or pursuant to a contract with a city, county, or special district, and pursuant to a program established under Article 3 (commencing with Section 1480) of Chapter 2.5 of Division 2 of the Health and Safety Code by a paramedic certified pursuant to that article, and consisting of defibrillation and those services specified in subdivision (3) of Section 1482 of the article.

This subdivision shall be in effect only to the extent federal financial participation is available as set forth in Section 14106.6.

SEC. 4. Section 1.5 of this act shall only become operative if SB 125 of the 1980-81 Regular Session of the Legislature is chaptered into law.

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:

The Legislature has made and proposes to make, Proposition 13 bail-out funds available to local agencies on a fiscal year basis. Since the availability of such state bail-out funds is determinative of whether or not the provisions of this act relating to paramedic services are operative, and in order that local governmental entities

may receive the benefits of this act at the earliest possible time, it is necessary that this act take effect immediately.

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## CHAPTER 1323

An act to amend Sections 14251, 14308, 14312, 14450, 14451, 14452, 14456, 14457, 14459, and 14460 of the Welfare and Institutions Code, relating to health care.

[Approved by Governor September 30, 1980 Filed with  
Secretary of State September 30, 1980.]

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

SECTION 1. Section 14251 of the Welfare and Institutions Code is amended to read:

14251. "Prepaid health plan" means any 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), 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), or licensed as a nonprofit hospital service plan by the Insurance Commissioner pursuant to Section 11493(e) and Sections 11501 to 11505 of the Insurance Code.

(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 State Director of Health Services may waive any provision of this chapter which the director determines is 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. 1.5. Section 14251 of the Welfare and Institutions Code is amended to read:

14251. "Prepaid health plan" means any 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) or licensed as a nonprofit hospital service plan by the Insurance Commissioner pursuant to Section 11493(e) and Sections 11501 to 11505 of the Insurance Code.

(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 State Director of Health Services may waive any provision of this chapter which the director determines is 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. 2. Section 14308 of the Welfare and Institutions Code is amended to read:

14308. (a) Each prepaid health plan shall furnish to the director such information and reports as required by Title XIX of the federal Social Security Act.

(b) The director may require a prepaid health plan to provide the director with information and reports which are furnished by the prepaid health plan to the Commissioner of Corporations pursuant to the provisions of Chapter 2.2 (commencing with Section 1340), Division 2, of the Health and Safety Code, the Knox-Keene Health Care Service Plan Act of 1975, or to the Insurance Commissioner pursuant to the provisions of Chapter 11A (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code, as appropriate.

(c) The director may, by regulation, require plans to furnish statistical information to the extent such information is necessary for the department to establish rates of payment pursuant to Section 14301 and to provide reports pursuant to Section 14313. The department shall, to the extent feasible, accept this information in a form which is consistent with reports required to be provided pursuant to the Knox-Keene Health Care Service Plan Act of 1975, or to Chapter 11A (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code, as appropriate. In the case of a hospital based plan which is a health maintenance organization qualified pursuant to Title XIII of the federal Public Health Service Act, and which has more than one million enrollees, of whom less than 10 percent are Medi-Cal enrollees, information required pursuant to this subdivision shall consist of reports required to be made to the Department of Health, Education and Welfare pursuant to Title XIII of the federal Public Health Service Act.

SEC. 3. Section 14312 of the Welfare and Institutions Code is amended to read:

14312. The director shall adopt all necessary rules and regulations to carry out the provisions of this chapter. In adopting such rules and regulations, the director shall be guided by the needs of eligible persons as well as prevailing practices in the delivery of health care

on a prepaid basis. Except where otherwise required by federal law or by this part, the rules and regulations shall be consistent with the requirements of the Knox-Keene Health Care Service Plan Act of 1975, or the provisions of Chapter 11A (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code, as appropriate.

SEC. 4. Section 14450 of the Welfare and Institutions Code is amended to read:

14450. No contract between the department and a prepaid health plan shall be approved or renewed unless the providers and the facilities of the prepaid health plan meet the Medi-Cal program standards for participation as established by the director. In addition, a prepaid health plan shall meet the standards required pursuant to the provisions of the Knox-Keene Health Care Service Plan Act of 1975, or the provisions of Chapter 11A (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code, as appropriate, standards specifically required by federal law, and the following requirements:

(a) Each prepaid health plan shall establish a grievance procedure under which enrollees may submit their grievances. Such procedure shall be approved by the department prior to the approval of the contract. The department shall establish standards for such procedures to insure adequate consideration and rectification of enrollee grievances. A prepaid health plan shall make a finding of fact in the case of each grievance processed, a copy of which shall be transmitted to the enrollee. If the enrollee has an unresolved grievance, the fair hearing provided in Chapter 7 (commencing with Section 10950) of Part 2 shall be available to resolve all grievances regarding care and administration by the prepaid health plan. The findings and recommendations of the department, based on the decision of the hearing officer, shall be binding upon the prepaid health plan. Any changes in a proposed health plan's grievance procedure must be approved by the department before such changes take effect.

(b) The prepaid health plan shall provide the director, for his approval, a plan for marketing its services to Medi-Cal beneficiaries which relates the proposed service to the need for services, and the size of the potential population to be served in the proposed service area.

(c) The prepaid health plan shall demonstrate to the department that it has adequate financial resources, administrative abilities and soundness of program design to carry out its contractual obligations.

SEC. 5. Section 14451 of the Welfare and Institutions Code is amended to read:

14451. Services under a prepaid health plan contract shall be provided in accordance with the requirements of the Knox-Keene Health Care Service Plan Act of 1975, or the requirements of Chapter 11A (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code, as appropriate.

SEC. 6. Section 14452 of the Welfare and Institutions Code is

amended to read:

14452. (a) All subcontracts shall be entered into pursuant to the requirements of the Knox-Keene Health Care Service Plan Act of 1975, or the requirements of Chapter 11A (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code, as appropriate, and federal law. All subcontracts shall be in writing, a copy of which shall be transmitted to the department.

Each subcontract shall contain the amount of compensation or other consideration which the subcontractor will receive under the terms of the subcontract with the prepaid health plan; provided, however, that these provisions shall not apply to a provider who is employed or salaried by the prepaid health plan. A prepaid health plan shall not enter into any subcontract in which consideration is determined by a percentage of the primary contractor's payment from the department. This subdivision shall not be construed to prohibit any subcontract in which consideration is determined on a capitation basis.

Subcontracts between a prepaid health plan and the subcontractor shall be public records on file with the department. The names of the officers and owners of the subcontractor, stockholders owning more than 10 percent of the stock issued by the subcontractor, and major creditors holding more than 5 percent of the debt of the subcontractor shall be submitted by each prepaid health plan to the department and shall be public records on file with the department.

(b) A prepaid health plan which is not a qualified health maintenance organization pursuant to Title XIII of the federal Public Health Service Act shall submit all provider and management subcontracts to the department for approval prior to the subcontract taking effect.

(c) Each subcontract shall require that the subcontractor make all of its books and records, pertaining to the goods and services furnished under the terms of the subcontract, available for inspection, examination, or copying by the department during normal working hours at the subcontractor's place of business, or at such other mutually agreeable location in California.

SEC. 7. Section 14456 of the Welfare and Institutions Code is amended to read:

14456. The department shall conduct annual medical audits of each prepaid health plan unless the director determines there is good cause for additional reviews.

The reviews shall use the standards and criteria established pursuant to the Knox-Keene Health Care Service Plan Act of 1975, or to Chapter 11A (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code, as appropriate. Except in those instances where major unanticipated administrative obstacles prevent, or after a determination by the director of good cause, the reviews shall be scheduled and carried out jointly with reviews carried out pursuant to the Knox-Keene Health Care Service Plan Act of 1975, or to Chapter 11A (commencing with Section 11491) of

Part 2 of Division 2 of the Insurance Code, as appropriate, if reviews under either act will be carried out within time periods which satisfy the requirements of federal law.

The department shall be authorized to contract with professional organizations or the Department of Corporations or the Department of Insurance, as appropriate, to perform the periodic review required by this section. The department, or its designee, shall make a finding of fact with respect to the ability of the prepaid health plan to provide quality health care services, effectiveness of peer review, and utilization control mechanisms, and the overall performance of the prepaid health plan in providing health care benefits to its enrollees.

SEC. 8. Section 14457 of the Welfare and Institutions Code is amended to read:

14457. In addition to the reviews required or authorized by Section 14456, the department shall conduct periodic onsite visits or additional visits after a determination by the director of good cause by departmental representatives to include observation of the general operation of the prepaid health plan, the condition of the facilities for delivering health care, the availability of emergency services, the degree of satisfaction of the enrollees, the operation of the plan's grievance system, and the administrative and financial aspects of the operation of the prepaid health plan.

Except when reviewing a plan's grievance system or marketing activities, this evaluation shall use standards and criteria established pursuant to the Knox-Keene Health Care Service Plan Act of 1975, or to Chapter 11A (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code, as appropriate. Except in those instances where major, unanticipated administrative obstacles prevent, or after a determination by the director of good cause, the visits shall be scheduled and carried out jointly with reviews carried out pursuant to the Knox-Keene Health Care Service Plan Act of 1975, or to Chapter 11A (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code, as appropriate, if reviews under either act will be carried out within time periods which satisfy the requirements of federal law.

The State Department of Health Services may contract with the Department of Corporations or the Department of Insurance, as appropriate, to perform the periodic visits required by this section.

SEC. 9. Section 14459 of the Welfare and Institutions Code is amended to read:

14459. The prepaid health plan shall maintain financial records and shall have an annual audit or additional audits after a determination by the director of good cause, performed by an independent certified public accountant. A prepaid health plan operated by a public entity shall have an annual audit performed in a manner approved by the department. All certified financial statements shall be filed with the department as soon as practical after the end of the prepaid health plan's fiscal year and in any event,

within a period not to exceed 90 days thereafter. These financial statements shall be filed with the department and shall be public records. The department shall perform routine auditing of prepaid health plan contractors and their affiliated subcontractors. Except in those instances where major unanticipated obstacles prevent, or after a determination by the director of good cause, the audits shall be scheduled and carried out jointly with audits carried out pursuant to the Knox-Keene Health Care Service Plan Act of 1975, or to Chapter 11A (commencing with Section 11491) of Part 2 of Division 2 of the Insurance Code, as appropriate, if audits under either act are carried out within time periods which satisfy the requirements of federal law. The department is authorized to contract with the Department of Corporations or the Department of Insurance, as appropriate, to carry out the audits required by this section. The prepaid health plan shall make all of its books and records available for inspection, examination or copying by the department during normal working hours at the prepaid health plan's principal place of business or at such other place in California as the department shall designate. For good cause, the department may grant an exception to the time when annual financial statements are to be submitted to the department. The annual report required in Section 14313 shall include an itemization of expenditures made by each prepaid health plan for the following categories of expenditures: physician services, inpatient and outpatient hospital services, pharmaceutical services and prescription drugs, dental services, medical transportation services, vision care services, mental health services, laboratory services, X-ray services, enrollee education programs, marketing and enrollment costs, data-processing costs, other administrative costs and health service expenditures and any payments made to subcontractors, and the purposes of the payments, including but not limited to, contributions to election campaigns.

SEC. 10. Section 14460 of the Welfare and Institutions Code is amended to read:

14460. A schedule of reviews, visits, and audits shall be jointly established by the Department of Corporations or the Department of Insurance, as the case may be, and the State Department of Health Services. Nothing in Section 14456, 14457, or 14459 shall be construed to prohibit the State Department of Health Services from conducting reviews, visits, or audits either jointly or individually, for the purpose of following up on findings resulting from reviews, visits, or audits carried out in accordance with this chapter.

SEC. 11. It is the intent of the Legislature, if this bill and Assembly Bill No. 2341 are both chaptered and become effective January 1, 1981, both bills amend Section 14251 of the Welfare and Institutions Code, and this bill is chaptered after Assembly Bill No. 2341, that the amendments to Section 14251 proposed by both bills be given effect and incorporated in Section 14251 in the form set forth in Section 1.5 of this act. Therefore, Section 1.5 of this act shall become operative only if this bill and Assembly Bill No. 2341 are both

chaptered and become effective January 1, 1981, both amend Section 14251, and this bill is chaptered after Assembly Bill No. 2341, in which case Section 1 of this act shall not become operative.

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## CHAPTER 1324

An act to amend Sections 9142 and 9690 of, and to add and repeal Section 9230 of, the Corporations Code, relating to corporations.

[Approved by Governor September 30, 1980. Filed with  
Secretary of State September 30, 1980.]

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

**SECTION 1.** The Legislature finds and declares that the First Amendment to the Constitution of the United States, and Article I, Section 4 of the California Constitution provide that Congress and the California Legislature shall make no law respecting an establishment of religion or respecting the free exercise thereof. The special protection afforded to freedom of worship, freedom of conscience, and freedom of thought lie at the very core of the American heritage and American freedoms, and bitter experience in lands which afforded no such protections led to the birth of an American republic committed to freedom of religion. Such protections and heritage require that government action regarding religious bodies must be narrow and minimal. The Legislature hereby declares that the power of the State of California with respect to the formation, existence, and operation of religious corporations shall be limited to those expressly provided in statutes duly enacted by this Legislature, and that mere incorporation under the laws of California constitutes no waiver of the fundamental protections afforded religious bodies and individual freedom of worship.

**SEC. 2.** Section 9142 of the Corporations Code is amended to read:

**9142.** (a) Notwithstanding Section 9141, any of the following may bring an action to enjoin, correct, obtain damages for or to otherwise remedy a breach of a trust under which any or all of the assets of a corporation are held:

(1) The corporation, a member, or a former member asserting the right in the name of the corporation, provided that for the purpose of this paragraph the provisions of Section 5710 shall apply to such action.

(2) An officer of the corporation.

(3) A director of the corporation.

(4) A person with a reversionary, contractual, or property interest in the assets subject to such trust.

(b) In an action under this section, the court may not rescind or enjoin the performance of a contract unless:

(1) All of the parties to the contract are parties to the action;  
(2) No party to the contract has, in good faith and without actual notice of the restriction, parted with value under the contract or in reliance upon it; and

(3) It is equitable to do so.

SEC. 3. Section 9230 of the Corporations Code is repealed.

SEC. 4. Section 9230 is added to the Corporations Code, to read:

9230. (a) Except as the Attorney General is empowered to act in the enforcement of the criminal laws of this state, and except as the Attorney General is expressly empowered by subdivisions (b), (c) and (d), the Attorney General shall have no powers with respect to any corporation incorporated or classified as a religious corporation under or pursuant to this code.

(b) The Attorney General shall have authority to institute an action or proceeding under Section 803 of the Code of Civil Procedure, to obtain judicial determination that a corporation is not properly qualified or classified as a religious corporation under the provisions of Section 9111.

(c) The Attorney General shall have the authority (1) expressly granted with respect to any subject or matter covered by Sections 9660 to 9690, inclusive; (2) to initiate criminal procedures to prosecute violations of the criminal laws, and upon conviction seek restitution as punishment; and (3) to represent as legal counsel any other agency or department of the State of California expressly empowered to act with respect to the status of religious corporations, or expressly empowered to regulate activities in which religious corporations, as well as other entities, may engage.

(d) Where property has been solicited and received from the general public, based on a representation that it would be used for a specific charitable purpose other than general support of the corporation's activities, and has been used in a manner contrary to that specific charitable purpose for which the property was solicited, the Attorney General may institute an action to enforce such charitable trust; provided (1) that before bringing such action the Attorney General shall notify the corporation that an action will be brought unless the corporation takes immediate steps to correct the improper diversion of funds, and (2) that in the event it becomes impractical or impossible for the corporation to devote the property to the specified charitable purpose, then the directors of the corporation may approve in good faith the use of such property for the general purposes of the corporation.

SEC. 5. Section 9690 of the Corporations Code is amended to read:

9690. The provisions of Chapter 18 (commencing with Section 6810) of Part 2 apply to religious corporations. In so providing, the Legislature encourages the criminal courts of this state in sentencing persons convicted of fraudulent activities in the guise of religious activity to exercise their authority to impose restitution as a means of compensating the victims.

SEC. 6. This act shall become operative on June 1, 1981.

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CHAPTER 1325

An act to amend Sections 56503 and 56505 of, and to add Section 56507 to, the Education Code, relating to special education.

[Approved by Governor September 30, 1980 Filed with  
Secretary of State September 30, 1980.]

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

SECTION 1. Section 56503 of the Education Code is amended to read:

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.

(i) Notwithstanding the intent of the Legislature that the mediation conference be informal and nonadversarial, if the public education agency uses an attorney as its representative during any part of the conference, such use shall be governed by Section 56507.

SEC. 2. Section 56505 of the Education Code is amended to read:

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 use of an attorney as a representative of the public education agency during any part of the hearing shall be governed by Section 56507.

(g) 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.

(h) The hearing conducted pursuant to this section shall be the final administrative determination and binding on all parties.

(i) Nothing in this chapter shall preclude a party from exercising the right to appeal the decision to a court of competent jurisdiction.

SEC. 3. Section 56507 is added to the Education Code, to read:

56507. (a) Except as provided in subdivisions (b) and (c), the public education agency shall not use the services of an attorney for actual presentation of written argument, oral argument, evidence, or any combination thereof, during any part of a mediation conference or state hearing.

(b) The public education agency may initiate the use of the services of an attorney for actual presentation of written argument, oral argument, evidence, or any combination thereof, during a mediation conference or state hearing, provided that all the following requirements are satisfied:

(1) The public education agency notifies the parent, in writing, of the use of such services at least three days prior to the mediation conference or at least 10 days prior to the state hearing, as appropriate.

(2) The public education agency provides for a listing of attorneys knowledgeable in mediation conferences and state hearings to be provided to the parent.

(3) The public education agency bears only those costs of the services of any attorney provided to the parent for which the parent is required to pay. However, in no case shall such costs to the agency be greater than the cost to the agency for its own attorney services, including the cost of preparation and advice.

(c) (1) The public education agency may use the services of an attorney for actual presentation of written argument, oral argument, evidence, or any combination thereof, during a mediation conference or state hearing, if the parent initiates the use of the services of an attorney. The parent shall notify the public education agency, in writing, of the use of such services at least three days prior to the mediation conference or at least 10 days prior to the state hearing, as appropriate.

(2) If the parent uses the services of an attorney pursuant to paragraph (1), the parent shall bear his or her costs.

If the public education agency uses the services of an attorney pursuant to paragraph (1), it shall bear its costs.

(d) Nothing in this section shall be construed to limit the use of attorney services by a public education agency other than for actual presentation of written argument, oral argument, evidence, or any combination thereof during any part of the mediation conference or

state hearing.

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## CHAPTER 1326

An act to add Chapter 4.7 (commencing with Section 25370) to Division 15 of the Public Resources Code, and to amend Section 6453 of the Revenue and Taxation Code, relating to motor vehicle fuels, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1980 Filed with  
Secretary of State September 30, 1980 ]

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

SECTION 1. The Regulations for California's Gasoline Emergency which were adopted by the Governor and filed with the Secretary of State on November 14, 1979, and any amendments thereto shall have no force or effect in any county in this state.

SEC. 2. Chapter 4.7 (commencing with Section 25370) is added to Division 15 of the Public Resources Code, to read:

### CHAPTER 4.7. MOTOR VEHICLE FUEL CONSERVATION

25370. This chapter shall be known and may be cited as the "Motor Vehicle Fuel Conservation Act of 1980."

25370.5. As used in this chapter, "motor vehicle fuel" means any gasoline, the distribution of which is subject to taxation pursuant to the provisions of Part 2 (commencing with Section 7301) of Division 2 of the Revenue and Taxation Code. Motor vehicle fuel does not include any non-fossil based motor fuel.

25371. The Legislature finds and declares all of the following:

(a) The continued high consumption of petroleum and petroleum products in California and the nation is detrimental to the well-being of all citizens because of its adverse impact on the state and nation's balance of payments, rate of inflation, rate of unemployment, and national security.

(b) The single greatest component in statewide demand for petroleum and petroleum products is the demand for motor vehicle fuel.

(c) A reduction in the rate of growth in the use of motor vehicle fuel can be accomplished in California without adversely affecting the economy of the state or the individual well-being of its citizens.

(d) It is in the best interests of the state and nation that motor vehicle fuel conservation programs be implemented by local agencies.

25372. The Legislature further finds and declares that it is the policy and goal of this state to limit the future use of motor vehicle fuel in each county during each respective month of the year to 95

percent of the per capita average amount which was used in each such county for each such respective month during the base period July 1, 1977, through June 30, 1980. Specific monthly goals for each county shall be more particularly established pursuant to Section 25376.

25373. (a) In furtherance of the goal specified in Section 25372, a county board of supervisors may provide, by ordinance, for any of the following motor vehicle fuel conservation measures:

(1) Public outreach and education programs, such as driver efficiency programs and conservation education.

(2) Restricting motor vehicle fuel sales, including an odd-even program, minimum or maximum motor vehicle fuel purchase requirements, and regulation of hours and days of retail motor vehicle fuel sales operations.

(b) The Legislature finds and declares that meeting the goals established pursuant to Section 25372 is a matter of statewide concern. A county board of supervisors may apply the measures specified in subdivision (a) on a countywide basis, notwithstanding the existence and authority of individual cities located within the county boundaries.

A county board of supervisors proposing to enact an ordinance authorized by subdivision (a) shall provide each city within the county with at least 15 days' notice of its intent to do so.

(c) The application of the measures authorized by subdivision (a) shall not conflict with adopted policies of statutorily created transportation agencies which have been established pursuant to the provisions of Division 12 (commencing with Section 130000) of the Public Utilities Code or which are receiving funds pursuant to the provisions of Section 29532 of the Government Code.

25374. Nothing in this chapter shall preclude a county or city from enacting, by ordinance, a program to reduce the consumption of motor vehicle fuel to a level less than that provided for in Section 25372. In implementing such a program, the county or city may adopt any measure not prohibited by law.

25375. If the commission determines pursuant to Section 25377 that motor vehicle fuel consumption in any county has exceeded the monthly goal established pursuant to Section 25376 for three consecutive months, the Governor, after proclamation of a state of emergency in that county pursuant to Section 8625 of the Government Code and subject to the provisions of the California Emergency Services Act, Chapter 7 (commencing with Section 8550) of Division 1 of Title 2 of the Government Code, may implement by executive order applicable solely to that county, the motor vehicle fuel conservation measure specified in paragraph (2) of subdivision (a) of Section 25373 or any conservation measures contained in the state emergency conservation plan submitted and approved under Section 212 of the Emergency Energy Conservation Act of 1979 (P.L. 96-102) until the commission determines, pursuant to Section 25378, that motor vehicle fuel use in such county meets the

monthly goal established pursuant to Section 25376, at which time such order shall be terminated.

25376. The State Board of Equalization shall compute the base period for motor vehicle fuel use in each county as provided in this section.

(a) From such information as is available, the Energy Resources and Development Commission shall estimate the average monthly use of motor vehicle fuel in each county for each month of the calendar year during the base period July 1, 1977, through June 30, 1980.

(b) Using population estimates for each county prepared by the Department of Finance pursuant to Section 13073 of the Government Code, the State Board of Equalization shall determine the average population for each county during the base period July 1, 1977, through June 30, 1980.

(c) The average use of motor vehicle fuel for each calendar month of the base period as determined pursuant to subdivision (a) shall be divided by the average county population as determined pursuant to subdivision (b) to determine each county's respective per capita motor vehicle fuel use for each month of the calendar year.

(d) The motor vehicle fuel use goal for each county for each respective calendar month of the year shall be 95 percent of the respective monthly per capita amount determined pursuant to subdivision (c).

25377. Every retailer and fleet user of motor vehicle fuel shall report to the State Board of Equalization the number of gallons of such fuel sold to consumers or consumed by him each month in each county. This information shall be reported with the periodic returns filed pursuant to the Sales and Use Tax Law in such manner as prescribed by the board. The board shall publish a summary of the information by the last day of the month following the month in which the information is received. A copy of the summary shall be transmitted to the chairperson of the board of supervisors of each county and to the commission.

For the purposes of this section:

(a) "Retailer" has the same meaning as set forth in Section 6015 and Section 6019 of the Revenue and Taxation Code.

(b) "Fleet user" means every person who uses a California motor vehicle fuel not purchased at retail from a California seller.

25378. (a) Using the monthly motor vehicle fuel use information supplied by the State Board of Equalization pursuant to Section 25377, the commission shall determine monthly whether each county has met the per capita monthly motor vehicle fuel use goal established pursuant to Section 25376.

(b) In making the determination required by subdivision (a), the commission, immediately prior to July 1 of each year, shall obtain from the Department of Finance a current population estimate for each county. Such population estimate shall be used by the commission for each of the succeeding 12 months, beginning with

July 1, to determine whether each county has met the motor vehicle fuel use goal established pursuant to Section 25376.

(c) The commission shall provide a monthly report to the Governor of its determination pursuant to this section.

SEC. 3. Section 6453 of the Revenue and Taxation Code is amended to read:

6453. For purposes of the sales tax, the return shall show the gross receipts of the seller during the preceding reporting period and, in the case of a person who is liable for the sales tax and is not a seller, the gross receipts of such person for the period in which the liability was incurred. For purposes of the use tax, in case of a return filed by a retailer, the return shall show the total sales price of the property sold by him, the storage, use, or consumption of which property became subject to the use tax during the preceding reporting period; in case of a return filed by a purchaser, the return shall show the total sales price of the property purchased by him, the storage, use, or consumption of which became subject to the use tax during the preceding reporting period.

The return shall also show the amount of the taxes for the period covered by the return, the information required by Section 25377 of the Public Resources Code, if required by the board, and such other information as the board deems necessary for the proper administration of this part.

SEC. 4. Sections 2 and 3 of this act shall become operative on January 1, 1981.

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 effect immediately. The facts constituting such necessity are:

In order for the conservation of motor vehicle fuel to be accomplished pursuant to this act, it is necessary that this act take effect immediately.

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## CHAPTER 1327

An act to amend Sections 17226 and 24372 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 30, 1980 Filed with  
Secretary of State September 30, 1980 ]

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

SECTION 1. Section 17226 of the Revenue and Taxation Code is amended to read:

17226. (a) Every taxpayer at his election, shall be entitled to a deduction with respect to the amortization of the amortizable basis

of any certified pollution control facility (as defined in subdivision (d)) or alternative energy equipment (as defined in subdivision (l)), based on a period of either 12 months or 60 months. Such amortization deduction shall be an amount with respect to each month of such period within the taxable year, equal to the amortizable basis of the pollution control facility or alternative energy equipment at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such amortizable basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction provided by this section with respect to any month shall be in lieu of the depreciation deduction with respect to such pollution control facility or alternative energy equipment for such month provided by Section 17208. The amortization deduction provided by this section shall be in lieu of the solar tax credit provided by Section 17052.5. The 12-month or 60-month amortization period shall begin, as to any pollution control facility or alternative energy equipment, at the election of the taxpayer, with the month following the month in which such facility was completed or acquired, or with the succeeding taxable year.

(b) The election of the taxpayer to take the amortization deduction and to begin the 12-month or 60-month amortization period with the month following the month in which the facility or alternative energy equipment is completed or acquired, or with the taxable year succeeding the taxable year in which such facility or alternative energy equipment is completed or acquired, shall be made by filing with the Franchise Tax Board in such manner, in such form, and within such time, as the Franchise Tax Board may by regulations prescribe, a statement of such election. The election of the 12-month amortization period shall be irrevocable. The Franchise Tax Board, in determining the eligibility of alternative energy equipment for which a taxpayer has filed a statement of election, may consult with the California Energy Commission regarding the technical qualifications of such equipment.

(c) A taxpayer which has elected under subdivision (b) to take the amortization deduction provided in subdivision (a) may, at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Franchise Tax Board before the beginning of such month. The depreciation deduction provided under Section 17208 shall be allowed, beginning with the first month as to which the amortization deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction under this section with respect to such pollution control facility or alternative energy equipment.

(d) For purposes of this section—

(1) The term “certified pollution control facility” means a new

identifiable treatment facility which is used, in connection with a plant or other property, to abate or control water or atmospheric pollution or contamination by removing, altering, disposing, storing, or preventing the creation or admission of pollutants, contaminants, wastes, or heat and which—

(A) The State Department of Health Services has certified as having been constructed, reconstructed, erected, or acquired in conformity with the state program or requirements for abatement or control of water or atmospheric pollution or contamination, and

(B) Does not significantly—

(i) Increase the output or capacity, extend the useful life, or reduce the total operating costs of such plant or other property (or any unit thereof), or

(ii) Alter the nature of the manufacturing or production process or facility.

(2) For purposes of paragraph (1), the term “new identifiable treatment facility” includes only tangible property (not including a building and its structural components, other than a building which is exclusively a treatment facility) which is of a character subject to the allowance for depreciation provided in Section 17208, which is identifiable as a treatment facility.

(3) The State Department of Health Services shall not certify any property to the extent it appears that by reason of profits derived through the recovery of wastes or otherwise in the operation of such property, its costs will be recovered over its actual useful life.

(e) (1) For purposes of this section, the term “amortizable basis” means that portion of the adjusted basis (for determining gain) of a certified pollution control facility or alternative energy equipment which may be amortized under this section. For purposes of the deduction for alternative energy equipment provided in this section, the amortizable basis shall be reduced by the amount of any grant provided by a public entity for such alternative energy equipment.

(2) (A) If a certified pollution control facility or alternative energy equipment has a useful life (determined as of the first day of the first month for which a deduction is allowable under this section) in excess of 15 years, the amortizable basis of such facility or alternative energy equipment shall be equal to an amount which bears the same ratio to the portion of the adjusted basis of such facility or alternative energy equipment, which would be eligible for amortization but for the application of this subparagraph, as 15 bears to the number of years of useful life of such facility.

(B) The amortizable basis of a certified pollution control facility or alternative energy equipment with respect to which an election under this section is in effect shall not be increased, for purposes of this section, for additions or improvements after the amortization period has begun.

(f) The depreciation deduction provided by Section 17208 shall, despite the provisions of subdivision (a), be allowed with respect to the portion of the adjusted basis which is not the amortizable basis.

(g) In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.

(h) For special rule with respect to certain gain derived from the disposition of property the adjusted basis of which is determined with regard to this section, see Section 18211.

(i) The amendments made to subdivision (d) by the 1977-78 Regular Session of the Legislature shall apply to taxable years beginning after December 31, 1976. Such amendments shall not apply in the case of any property with respect to which the amortization period under this section began before January 1, 1977.

(j) The 12-month period of amortization provided for under subdivision (a) shall be available only for those certified pollution control facilities or alternative energy equipment located in California.

(k) This section shall not apply with respect to certified pollution control facilities placed in service after December 31, 1987, or alternative energy equipment placed in service after December 31, 1985.

(l) "Alternative energy equipment" means equipment used to produce or convert energy from the following sources:

- (1) Cogeneration.
- (2) Solar energy.
- (3) Geothermal energy.
- (4) Biomass energy.
- (5) Small hydroelectric energy.

(m) "Biomass energy" means the use of vegetative or waste material to generate steam, electricity, or mechanical energy by direct burning or conversion to another form of fuel.

(n) "Solar energy" means the use of solar or wind energy devices for production of electricity, mechanical work, space heating, water heating, or industrial process heat.

(o) "Geothermal energy" means the process of using heat from the earth to generate electricity or for heating purposes.

(p) "Small hydroelectric energy" means the use of hydroelectric generating equipment with an installed capacity of less than 25 megawatts.

(q) "Cogeneration" means the use of cogeneration technology as defined in Section 25134 of the Public Resources Code. For the purposes of this section, "alternative energy equipment" shall not apply to and no claim shall be made for:

(1) Equipment for any project for which a building permit or binding financial commitment has been applied for before January 1, 1980.

(2) Equipment, other than equipment used for cogeneration, that uses either fossil fuel or nuclear fuel as its primary energy source.

(r) Property described in this section which is amortized for 12 or 60 months shall be considered to be Section 18212 property and for

the purposes of that section, "additional depreciation" means amortization adjustments in excess of the amount of depreciation adjustments which would have resulted under the straight line method.

SEC. 1.5. Section 17226 of the Revenue and Taxation Code is amended to read:

17226. (a) Every taxpayer at his election, shall be entitled to a deduction with respect to the amortization of the amortizable basis of any certified pollution control facility (as defined in subdivision (d)), cogeneration equipment (as defined in subdivision (l)), or alternative energy equipment (as defined in subdivision (m)), based on a period of either 12 months or 60 months. Such amortization deduction shall be an amount with respect to each month of such period within the taxable year, equal to the amortizable basis of the pollution control facility, cogeneration equipment, or alternative energy equipment at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such amortizable basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction provided by this section with respect to any month shall be in lieu of the depreciation deduction with respect to such pollution control facility, cogeneration equipment, or alternative energy equipment for such month provided by Section 17208. The amortization deduction provided by this section shall be in lieu of the solar tax credit provided by Section 17052.5. The 12-month or 60-month amortization period shall begin, as to any pollution control facility, cogeneration equipment, or alternative energy equipment, at the election of the taxpayer, with the month following the month in which such facility was completed or acquired, or with the succeeding taxable year.

(b) The election of the taxpayer to take the amortization deduction and to begin the 12-month or 60-month amortization period with the month following the month in which the facility, cogeneration equipment, or alternative energy equipment is completed or acquired, or with the taxable year succeeding the taxable year in which such facility, cogeneration equipment, or alternative energy equipment is completed or acquired, shall be made by filing with the Franchise Tax Board in such manner, in such form, and within such time, as the Franchise Tax Board may by regulations prescribe, a statement of such election. The election of the 12-month amortization period shall be irrevocable. The Franchise Tax Board, in determining the eligibility of alternative energy equipment for which a taxpayer has filed a statement of election, may consult with the California Energy Commission regarding the technical qualifications of such equipment.

(c) A taxpayer which has elected under subdivision (b) to take the amortization deduction provided in subdivision (a) may, at any time after making such election, discontinue the amortization

deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Franchise Tax Board before the beginning of such month. The depreciation deduction provided under Section 17208 shall be allowed, beginning with the first month as to which the amortization deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction under this section with respect to such pollution control facility, cogeneration equipment, or alternative energy equipment.

(d) For purposes of this section—

(1) The term “certified pollution control facility” means a new identifiable treatment facility which is used, in connection with a plant or other property, to abate or control water or atmospheric pollution or contamination by removing, altering, disposing, storing, or preventing the creation or admission of pollutants, contaminants, wastes, or heat and which—

(A) The State Department of Health Services has certified as having been constructed, reconstructed, erected, or acquired in conformity with the state program or requirements for abatement or control of water or atmospheric pollution or contamination, and

(B) Does not significantly—

(i) Increase the output or capacity, extend the useful life, or reduce the total operating costs of such plant or other property (or any unit thereof), or

(ii) Alter the nature of the manufacturing or production process or facility.

(2) For purposes of paragraph (1), the term “new identifiable treatment facility” includes only tangible property (not including a building and its structural components, other than a building which is exclusively a treatment facility) which is of a character subject to the allowance for depreciation provided in Section 17208, which is identifiable as a treatment facility.

(3) The State Department of Health Services shall not certify any property to the extent it appears that by reason of profits derived through the recovery of wastes or otherwise in the operation of such property, its costs will be recovered over its actual useful life.

(e) (1) For purposes of this section, the term “amortizable basis” means that portion of the adjusted basis (for determining gain) of a certified pollution control facility, cogeneration equipment, or alternative energy equipment which may be amortized under this section. For purposes of the deduction for alternative energy equipment provided in this section, the amortizable basis shall be reduced by the amount of any grant provided by a public entity for such alternative energy equipment.

(2) (A) If a certified pollution control facility, cogeneration equipment, or alternative energy equipment has a useful life (determined as of the first day of the first month for which a deduction is allowable under this section) in excess of 15 years, the

amortizable basis of such facility, cogeneration equipment, or alternative energy equipment shall be equal to an amount which bears the same ratio to the portion of the adjusted basis of such facility, cogeneration equipment, or alternative energy equipment, which would be eligible for amortization but for the application of this subparagraph, as 15 bears to the number of years of useful life of such facility, cogeneration equipment, or alternative energy equipment.

(B) The amortizable basis of a certified pollution control facility, cogeneration equipment, or alternative energy equipment with respect to which an election under this section is in effect shall not be increased, for purposes of this section, for additions or improvements after the amortization period has begun.

(f) The depreciation deduction provided by Section 17208 shall, despite the provisions of subdivision (a), be allowed with respect to the portion of the adjusted basis which is not the amortizable basis.

(g) In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.

(h) For special rule with respect to certain gain derived from the disposition of property the adjusted basis of which is determined with regard to this section, see Section 18211.

(i) The amendments made to subdivision (d) by the 1977-78 Regular Session of the Legislature shall apply to taxable years beginning after December 31, 1976. Such amendments shall not apply in the case of any property with respect to which the amortization period under this section began before January 1, 1977.

(j) The 12-month period of amortization provided for under subdivision (a) shall be available only for those certified pollution control facilities, cogeneration equipment, or alternative energy equipment located in California.

(k) This section shall not apply with respect to certified pollution control facilities placed in service after December 31, 1987, or cogeneration equipment, or alternative energy equipment placed in service after December 31, 1985.

(l) For purposes of this section "cogeneration equipment" shall have the same meaning as it is described in Section 25134 of the Public Resources Code.

(m) "Alternative energy equipment" means equipment used to produce or convert energy from the following sources:

- (1) Cogeneration.
- (2) Solar energy.
- (3) Geothermal energy.
- (4) Biomass energy.
- (5) Small hydroelectric energy.

(n) "Biomass energy" means the use of vegetative material to generate steam, electricity, or mechanical energy by direct burning or conversion to another form of fuel.

(o) "Solar energy" means the use of solar or wind energy devices for production of electricity, mechanical work, space heating, water heating, or industrial process heat.

(p) "Geothermal energy" means the process of using heat from the earth to generate electricity or for heating purposes.

(q) "Small hydroelectric energy" means the use of hydroelectric generating equipment with an installed capacity of less than 25 megawatts.

(r) For the purposes of this section, "alternative energy equipment" shall not apply to and no claim shall be made for:

(1) Equipment for any project for which a building permit or binding financial commitment has been applied for before January 1, 1980.

(2) Equipment that uses either fossil fuel or nuclear fuel as its primary energy source.

(s) Property described in this section which is amortized for 12 or 60 months shall be considered to be Section 18212 property and for the purposes of that section, "additional depreciation" means amortization adjustments in excess of the amount of depreciation adjustments which would have resulted under the straight line method.

SEC. 2. Section 24372 of the Revenue and Taxation Code is amended to read:

24372. (a) Every taxpayer at its election, shall be entitled to a deduction with respect to the amortization of the amortizable basis of any certified pollution control facility (as defined in subdivision (d)) or alternative energy equipment (as defined in subdivision (k)), based on a period of either 12 months or 60 months. Such amortization deduction shall be an amount, with respect to each month of such period within the income year, equal to the amortizable basis of the pollution control facility or alternative energy equipment at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such amortizable basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction provided by this section with respect to any month shall be in lieu of the depreciation deduction with respect to such pollution control facility or alternative energy equipment for such month provided by Section 24349. The amortization deduction provided by this section shall be in lieu of the solar tax credit provided by Section 23601. The 12-month or 60-month amortization period shall begin, as to any pollution control facility or alternative energy equipment, at the election of the taxpayer, with the month following the month in which such facility was completed or acquired, or with the succeeding income year.

(b) The election of the taxpayer to take the amortization deduction and to begin the 12-month or 60-month amortization period with the month following the month in which the facility is

completed or acquired, or with the income year succeeding the income year in which such facility is completed or acquired, shall be made by filing with the Franchise Tax Board in such manner, in such form, and within such time, as the Franchise Tax Board may by regulations prescribe, a statement of such election. The election of the 12-month amortization period shall be irrevocable. The Franchise Tax Board, in determining the eligibility of alternative energy equipment for which a taxpayer has filed a statement of election, may consult with the California Energy Commission regarding the technical qualifications of such equipment.

(c) A taxpayer which has elected under subdivision (b) to take the amortization deduction provided in subdivision (a) may at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Franchise Tax Board before the beginning of such month. The depreciation deduction provided under Section 24349 shall be allowed, beginning with the first month as to which the amortization deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction under this section with respect to such pollution control facility.

(d) For purposes of this section—

(1) The term “certified pollution control facility” means a new identifiable treatment facility which is used, in connection with a plant or other property to abate or control water or atmospheric pollution or contamination by removing, altering, disposing, storing or preventing the creation or emission of pollutants, contaminants, wastes, or heat and which—

(A) The State Department of Health Services has certified as having been constructed, reconstructed, erected, or acquired in conformity with the state program or requirements for abatement or control of water or atmospheric pollution or contamination and—

(B) Does not significantly—

(i) Increase the output or capacity, extend the useful life, or reduce the total operating costs of such plant or other property (or any unit thereof), or

(ii) Alter the nature of the manufacturing or production process or facility.

(2) For purposes of paragraph (1), the term “new identifiable treatment facility” includes only tangible property (not including a building and its structural components, other than a building which is exclusively a treatment facility) which is of a character subject to the allowance for depreciation provided in Section 24349, which is identifiable as a treatment facility.

(3) The State Department of Health Services shall not certify any property to the extent it appears that by reason of profits derived through the recovery of wastes or otherwise in the operation of such property, its costs will be recovered over its actual useful life.

(e) (1) For purposes of this section, the term "amortizable basis" means that portion of the adjusted basis (for determining gain) of a certified pollution control facility or alternative energy equipment which may be amortized under this section. For purposes of the deduction for alternative energy equipment provided in this section, the amortizable basis shall be reduced by the amount of any grant provided by a public entity for such alternative energy equipment.

(2) (A) If a certified pollution control facility or alternative energy equipment has a useful life (determined as of the first day of the first month for which a deduction is allowable under this section) in excess of 15 years, the amortizable basis of such facility shall be equal to an amount which bears the same ratio to the portion of the adjusted basis of such facility or alternative energy equipment, which would be eligible for amortization but for the application of this subparagraph, as 15 bears to the number of years of useful life of such facility or alternative energy equipment.

(B) The amortizable basis of a certified pollution control facility or alternative energy equipment with respect to which an election under this section is in effect shall not be increased, for purposes of this section, for additions or improvements after the amortization period has begun.

(f) The depreciation deduction provided by Section 24349 shall, despite the provisions of subdivision (a), be allowed with respect to the portion of the adjusted basis which is not the amortizable basis.

(g) In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.

(h) The amendment made to subdivision (d) by the 1977-78 Legislature shall apply to income years beginning after December 31, 1976. Such amendments shall not apply in the case of any property with respect to which the amortization period under this section began before January 1, 1977.

(i) The 12-month period of amortization provided for under subdivision (a) shall be available only for those certificated pollution control facilities located in this state.

(j) This section shall not apply with respect to certified pollution control facilities placed in service after December 31, 1987, or alternative energy equipment placed in service after December 31, 1985.

(k) "Alternative energy equipment" means equipment used to produce or convert energy from the following sources:

- (1) Cogeneration.
- (2) Solar energy.
- (3) Geothermal energy.
- (4) Biomass energy.
- (5) Small hydroelectric energy.

(l) "Biomass energy" means the use of vegetative or waste material to generate steam, electricity, or mechanical energy by

direct burning or conversion to another form of fuel.

(m) "Solar energy" means the use of solar or wind energy devices for production of electricity, mechanical work, space heating, water heating, or industrial process heat.

(n) "Geothermal energy" means the process of using heat from the earth to generate electricity or for heating purposes.

(o) "Small hydroelectric energy" means the use of hydroelectric generating equipment with an installed capacity of less than 25 megawatts.

(p) "Cogeneration" means the use of cogeneration technology as defined in Section 25134 of the Public Resources Code. For the purposes of this section, "alternative energy equipment" shall not apply to and no claim shall be made for:

(1) Equipment for any project for which a building permit or binding financial commitment has been applied for before January 1, 1980.

(2) Equipment, other than equipment used for cogeneration, that uses either fossil fuel or nuclear fuel as its primary energy source.

SEC. 2.3. Section 24372 of the Revenue and Taxation Code is amended to read:

24372. (a) Every taxpayer at its election, shall be entitled to a deduction with respect to the amortization of the amortizable basis of any certified pollution control facility (as defined in subdivision (d)), cogeneration equipment (as defined in subdivision (l)), or alternative energy equipment (as defined in subdivision (m)), based on a period of either 12 months or 60 months. Such amortization deduction shall be an amount, with respect to each month of such period within the income year, equal to the amortizable basis of the pollution control facility, cogeneration equipment, or alternative energy equipment at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such amortizable basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction provided by this section with respect to any month shall be in lieu of the depreciation deduction with respect to such pollution control facility, cogeneration equipment, or alternative energy equipment for such month provided by Section 24349. The amortization deduction provided by this section shall be in lieu of the solar tax credit provided by Section 23601. The 12-month or 60-month amortization period shall begin, as to any pollution control facility, cogeneration equipment, or alternative energy equipment, at the election of the taxpayer, with the month following the month in which such facility was completed or acquired, or with the succeeding income year.

(b) The election of the taxpayer to take the amortization deduction and to begin the 12-month or 60-month amortization period with the month following the month in which the facility is completed or acquired, or with the income year succeeding the

income year in which such facility is completed or acquired, shall be made by filing with the Franchise Tax Board in such manner, in such form, and within such time, as the Franchise Tax Board may by regulations prescribe, a statement of such election. The election of the 12-month amortization period shall be irrevocable. The Franchise Tax Board, in determining the eligibility of alternative energy equipment for which a taxpayer has filed a statement of election, may consult with the California Energy Commission regarding the technical qualifications of such equipment.

(c) A taxpayer which has elected under subdivision (b) to take the amortization deduction provided in subdivision (a) may at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Franchise Tax Board before the beginning of such month. The depreciation deduction provided under Section 24349 shall be allowed, beginning with the first month as to which the amortization deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction under this section with respect to such pollution control facility.

(d) For purposes of this section—

(1) The term “certified pollution control facility” means a new identifiable treatment facility which is used, in connection with a plant or other property to abate or control water or atmospheric pollution or contamination by removing, altering, disposing, storing or preventing the creation or emission of pollutants, contaminants, wastes, or heat and which—

(A) The State Department of Health Services has certified as having been constructed, reconstructed, erected, or acquired in conformity with the state program or requirements for abatement or control of water or atmospheric pollution or contamination and—

(B) Does not significantly—

(i) Increase the output or capacity, extend the useful life, or reduce the total operating costs of such plant or other property (or any unit thereof), or

(ii) Alter the nature of the manufacturing or production process or facility.

(2) For purposes of paragraph (1), the term “new identifiable treatment facility” includes only tangible property (not including a building and its structural components, other than a building which is exclusively a treatment facility) which is of a character subject to the allowance for depreciation provided in Section 24349, which is identifiable as a treatment facility.

(e) The State Department of Health Services shall not certify any property to the extent it appears that by reason of profits derived through the recovery of wastes or otherwise in the operation of such property, its costs will be recovered over its actual useful life.

(f) (1) For purposes of this section, the term “amortizable basis”

means that portion of the adjusted basis (for determining gain) of a certified pollution control facility, cogeneration equipment, or alternative energy equipment which may be amortized under this section. For purposes of the deduction for alternative energy equipment provided in this section, the amortizable basis shall be reduced by the amount of any grant provided by a public entity for such alternative energy equipment.

(2) (A) If a certified pollution control facility, cogeneration equipment, or alternative energy equipment has a useful life (determined as of the first day of the first month for which a deduction is allowable under this section) in excess of 15 years, the amortizable basis of such facility, cogeneration equipment, or alternative energy equipment shall be equal to an amount which bears the same ratio to the portion of the adjusted basis of such facility, which would be eligible for amortization but for the application of this subparagraph, as 15 bears to the number of years of useful life of such facility, cogeneration equipment, or alternative energy equipment.

(B) The amortizable basis of a certified pollution control facility, cogeneration equipment, or alternative energy equipment with respect to which an election under this section is in effect shall not be increased, for purposes of this section, for additions or improvements after the amortization period has begun.

(g) The depreciation deduction provided by Section 24349 shall, despite the provisions of subdivision (a), be allowed with respect to the portion of the adjusted basis which is not the amortizable basis.

(h) In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.

(i) The amendment made to subdivision (d) by the 1977-78 Legislature shall apply to income years beginning after December 31, 1976. Such amendments shall not apply in the case of any property with respect to which the amortization period under this section began before January 1, 1977.

(j) The 12-month period of amortization provided for under subdivision (a) shall be available only for those certificated pollution control facilities, cogeneration equipment, or alternative energy equipment located in this state.

(k) This section shall not apply with respect to certified pollution control facilities placed in service after December 31, 1987, or cogeneration equipment, or alternative energy equipment placed in service after December 31, 1985.

(l) For purposes of this section, "cogeneration equipment" shall have the same meaning as it is defined in Section 25134 of the Public Resources Code.

(m) "Alternative energy equipment" means equipment used to produce or convert energy from the following sources:

(1) Cogeneration.

- (2) Solar energy.
- (3) Geothermal energy.
- (4) Biomass energy.
- (5) Small hydroelectric energy.

(n) "Biomass energy" means the use of vegetative material to generate steam, electricity, or mechanical energy by direct burning or conversion to another form of fuel.

(o) "Solar energy" means the use of solar or wind energy devices for production of electricity, mechanical work, space heating, water heating, or industrial process heat.

(p) "Geothermal energy" means the process of using heat from the earth to generate electricity or for heating purposes.

(q) "Small hydroelectric energy" means the use of hydroelectric generating equipment with an installed capacity of less than 25 megawatts.

(r) "Cogeneration" means the use of cogeneration technology as defined in Section 25134 of the Public Resources Code. For the purposes of this section, "alternative energy equipment" shall not apply to and no claim shall be made for:

(1) Equipment for any project for which a building permit or binding financial commitment has been applied for before January 1, 1980.

(2) Equipment that uses either fossil fuel or nuclear fuel as its primary energy source.

SEC. 2.5. The Legislative Analyst shall conduct an evaluation study to determine the impact of the provisions of this act on the following criteria:

- (a) The extent of revenue losses to the state.
- (b) The effects of the provisions on individuals, small businesses, and corporations claiming such amortization.
- (c) Under what conditions the incentive is maximized.
- (d) Whether an increase occurred in the number and kind of "alternative energy equipment facilities" established in California, including a specific breakdown of such facilities.
- (e) The facilities or technologies for which credits were claimed but were determined not to be eligible for such credits and the reasons for their ineligibility.

The Legislative Analyst shall report its findings to the Legislature on or before January 1, 1985.

SEC. 3. It is the intent of the Legislature, if this bill and Assembly Bill 1404 are both chaptered, both bills amend Sections 17226 and 24372 of the Revenue and Taxation Code, and this bill is chaptered after Assembly Bill 1404, that Sections 17226 and 24372 of the Revenue and Taxation Code, as amended by Sections 1 and 2 of Assembly Bill 1404 be further amended on the operative date of this act in the form set forth in Sections 1.5 and 2.3 of this act to incorporate the changes in Sections 17226 and 24372 proposed by this bill. Therefore, Sections 1.5 and 2.3 of this act shall become operative only if this bill and Assembly Bill 1404 are both chaptered, both

amend Sections 17226 and 24372, and this bill is chaptered after Assembly Bill 1404, in which case Sections 1 and 2 of this act shall not become operative.

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, Section 1 shall be applied to taxable years beginning on and after January 1, 1980, and Section 2 shall be applied to income years beginning on and after January 1, 1980.

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## CHAPTER 1328

An act to amend Sections 17226 and 24372 of the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 30, 1980 Filed with  
Secretary of State September 30, 1980 ]

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

SECTION 1. Section 17226 of the Revenue and Taxation Code is amended to read:

17226. (a) Every taxpayer at his election, shall be entitled to a deduction with respect to the amortization of the amortizable basis of any certified pollution control facility (as defined in subdivision (d)) or cogeneration equipment (as defined in subdivision (m)), based on a period of either 12 months or 60 months. Such amortization deduction shall be an amount with respect to each month of such period within the taxable year, equal to the amortizable basis of the pollution control facility or cogeneration equipment at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such amortizable basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction provided by this section with respect to any month shall be in lieu of the depreciation deduction with respect to such pollution control facility or cogeneration equipment for such month provided by Section 17208. The 12-month or 60-month amortization period shall begin, as to any pollution control facility or cogeneration equipment, at the election of the taxpayer, with the month following the month in which such facility was completed or acquired, or with the succeeding taxable year.

(b) The election of the taxpayer to take the amortization deduction and to begin the 12-month or 60-month amortization period with the month following the month in which the facility or cogeneration equipment is completed or acquired, or with the taxable year succeeding the taxable year in which such facility or

cogeneration equipment is completed or acquired, shall be made by filing with the Franchise Tax Board in such manner, in such form, and within such time, as the Franchise Tax Board may by regulations prescribe, a statement of such election. The election of the 12-month amortization period shall be irrevocable.

(c) A taxpayer which has elected under subdivision (b) to take the amortization deduction provided in subdivision (a) may, at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Franchise Tax Board before the beginning of such month. The depreciation deduction provided under Section 17208 shall be allowed, beginning with the first month as to which the amortization deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction under this section with respect to such pollution control facility or cogeneration equipment.

(d) For purposes of this section—

(1) The term “certified pollution control facility” means a new identifiable treatment facility which is used, in connection with a plant or other property, to abate or control water or atmospheric pollution or contamination by removing, altering, disposing, storing, or preventing the creation or admission of pollutants, contaminants, wastes, or heat and which—

(A) The State Department of Health Services has certified as having been constructed, reconstructed, erected, or acquired in conformity with the state program or requirements for abatement or control of water or atmospheric pollution or contamination, and

(B) Does not significantly—

(i) Increase the output or capacity, extend the useful life, or reduce the total operating costs of such plant or other property (or any unit thereof), or

(ii) Alter the nature of the manufacturing or production process or facility.

(2) For purposes of paragraph (1), the term “new identifiable treatment facility” includes only tangible property (not including a building and its structural components, other than a building which is exclusively a treatment facility) which is of a character subject to the allowance for depreciation provided in Section 17208, which is identifiable as a treatment facility.

(e) The State Department of Health Services shall not certify any property to the extent it appears that by reason of profits derived through the recovery of wastes or otherwise in the operation of such property, its costs will be recovered over its actual useful life.

(f) (1) For purposes of this section, the term “amortizable basis” means that portion of the adjusted basis (for determining gain) of a certified pollution control facility or cogeneration equipment which may be amortized under this section.

(2) (A) If a certified pollution control facility or cogeneration

equipment has a useful life (determined as of the first day of the first month for which a deduction is allowable under this section) in excess of 15 years, the amortizable basis of such facility or cogeneration equipment shall be equal to an amount which bears the same ratio to the portion of the adjusted basis of such facility or cogeneration equipment, which would be eligible for amortization but for the application of this subparagraph, as 15 bears to the number of years of useful life of such facility or cogeneration equipment.

(B) The amortizable basis of a certified pollution control facility or cogeneration equipment with respect to which an election under this section is in effect shall not be increased, for purposes of this section, for additions or improvements after the amortization period has begun.

(g) The depreciation deduction provided by Section 17208 shall, despite the provisions of subdivision (a), be allowed with respect to the portion of the adjusted basis which is not the amortizable basis.

(h) In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.

(i) For special rule with respect to certain gain derived from the disposition of property the adjusted basis of which is determined with regard to this section, see Section 18211.

(j) The amendments made to subdivision (d) by the 1977-78 Regular Session of the Legislature shall apply to taxable years beginning after December 31, 1976. Such amendments shall not apply in the case of any property with respect to which the amortization period under this section began before January 1, 1977.

(k) The 12-month period of amortization provided for under subdivision (a) shall be available only for those certified pollution control facilities or cogeneration equipment located in California.

(l) This section shall not apply with respect to certified pollution control facilities placed in service after December 31, 1987, or cogeneration equipment placed in service after December 31, 1985.

(m) For purposes of this section, "cogeneration equipment" shall have the same meaning as it is described in Section 25134 of the Public Resources Code.

SEC. 1.5. Section 17226 of the Revenue and Taxation Code is amended to read:

17226. (a) Every taxpayer at his election, shall be entitled to a deduction with respect to the amortization of the amortizable basis of any certified pollution control facility (as defined in subdivision (d)), cogeneration equipment (as defined in subdivision (l)), or alternative energy equipment (as defined in subdivision (m)), based on a period of either 12 months or 60 months. Such amortization deduction shall be an amount with respect to each month of such period within the taxable year, equal to the amortizable basis of the pollution control facility, cogeneration equipment, or alternative

energy equipment at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such amortizable basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction provided by this section with respect to any month shall be in lieu of the depreciation deduction with respect to such pollution control facility, cogeneration equipment, or alternative energy equipment for such month provided by Section 17208. The amortization deduction provided by this section shall be in lieu of the solar tax credit provided by Section 17052.5. The 12-month or 60-month amortization period shall begin, as to any pollution control facility, cogeneration equipment, or alternative energy equipment, at the election of the taxpayer, with the month following the month in which such facility was completed or acquired, or with the succeeding taxable year.

(b) The election of the taxpayer to take the amortization deduction and to begin the 12-month or 60-month amortization period with the month following the month in which the facility, cogeneration equipment, or alternative energy equipment is completed or acquired, or with the taxable year succeeding the taxable year in which such facility, cogeneration equipment, or alternative energy equipment is completed or acquired, shall be made by filing with the Franchise Tax Board in such manner, in such form, and within such time, as the Franchise Tax Board may by regulations prescribe, a statement of such election. The election of the 12-month amortization period shall be irrevocable. The Franchise Tax Board, in determining the eligibility of alternative energy equipment for which a taxpayer has filed a statement of election, may consult with the California Energy Commission regarding the technical qualifications of such equipment.

(c) A taxpayer which has elected under subdivision (b) to take the amortization deduction provided in subdivision (a) may, at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Franchise Tax Board before the beginning of such month. The depreciation deduction provided under Section 17208 shall be allowed, beginning with the first month as to which the amortization deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction under this section with respect to such pollution control facility, cogeneration equipment, or alternative energy equipment.

(d) For purposes of this section—

(1) The term “certified pollution control facility” means a new identifiable treatment facility which is used, in connection with a plant or other property, to abate or control water or atmospheric pollution or contamination by removing, altering, disposing, storing,

or preventing the creation or admission of pollutants, contaminants, wastes, or heat and which—

(A) The State Department of Health Services has certified as having been constructed, reconstructed, erected, or acquired in conformity with the state program or requirements for abatement or control of water or atmospheric pollution or contamination, and

(B) Does not significantly—

(i) Increase the output or capacity, extend the useful life, or reduce the total operating costs of such plant or other property (or any unit thereof), or

(ii) Alter the nature of the manufacturing or production process or facility.

(2) For purposes of paragraph (1), the term “new identifiable treatment facility” includes only tangible property (not including a building and its structural components, other than a building which is exclusively a treatment facility) which is of a character subject to the allowance for depreciation provided in Section 17208, which is identifiable as a treatment facility.

(3) The State Department of Health Services shall not certify any property to the extent it appears that by reason of profits derived through the recovery of wastes or otherwise in the operation of such property, its costs will be recovered over its actual useful life.

(e) (1) For purposes of this section, the term “amortizable basis” means that portion of the adjusted basis (for determining gain) of a certified pollution control facility, cogeneration equipment, or alternative energy equipment which may be amortized under this section. For purposes of the deduction for alternative energy equipment provided in this section, the amortizable basis shall be reduced by the amount of any grant provided by a public entity for such alternative energy equipment.

(2) (A) If a certified pollution control facility, cogeneration equipment, or alternative energy equipment has a useful life (determined as of the first day of the first month for which a deduction is allowable under this section) in excess of 15 years, the amortizable basis of such facility, cogeneration equipment, or alternative energy equipment shall be equal to an amount which bears the same ratio to the portion of the adjusted basis of such facility, cogeneration equipment, or alternative energy equipment, which would be eligible for amortization but for the application of this subparagraph, as 15 bears to the number of years of useful life of such facility, cogeneration equipment, or alternative energy equipment.

(B) The amortizable basis of a certified pollution control facility, cogeneration equipment, or alternative energy equipment with respect to which an election under this section is in effect shall not be increased, for purposes of this section, for additions or improvements after the amortization period has begun.

(f) The depreciation deduction provided by Section 17208 shall, despite the provisions of subdivision (a), be allowed with respect to

the portion of the adjusted basis which is not the amortizable basis.

(g) In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.

(h) For special rule with respect to certain gain derived from the disposition of property the adjusted basis of which is determined with regard to this section, see Section 18211.

(i) The amendments made to subdivision (d) by the 1977-78 Regular Session of the Legislature shall apply to taxable years beginning after December 31, 1976. Such amendments shall not apply in the case of any property with respect to which the amortization period under this section began before January 1, 1977.

(j) The 12-month period of amortization provided for under subdivision (a) shall be available only for those certified pollution control facilities, cogeneration equipment, or alternative energy equipment located in California.

(k) This section shall not apply with respect to certified pollution control facilities placed in service after December 31, 1987, or cogeneration equipment, or alternative energy equipment placed in service after December 31, 1985.

(l) For purposes of this section "cogeneration equipment" shall have the same meaning as it is described in Section 25134 of the Public Resources Code.

(m) "Alternative energy equipment" means equipment used to produce or convert energy from the following sources:

- (1) Cogeneration.
- (2) Solar energy.
- (3) Geothermal energy.
- (4) Biomass energy.
- (5) Small hydroelectric energy.

(n) "Biomass energy" means the use of vegetative material to generate steam, electricity, or mechanical energy by direct burning or conversion to another form of fuel.

(o) "Solar energy" means the use of solar or wind energy devices for production of electricity, mechanical work, space heating, water heating, or industrial process heat.

(p) "Geothermal energy" means the process of using heat from the earth to generate electricity or for heating purposes.

(q) "Small hydroelectric energy" means the use of hydroelectric generating equipment with an installed capacity of less than 25 megawatts.

(r) For the purposes of this section, "alternative energy equipment" shall not apply to and no claim shall be made for:

(1) Equipment for any project for which a building permit or binding financial commitment has been applied for before January 1, 1980.

(2) Equipment that uses either fossil fuel or nuclear fuel as its primary energy source.

(s) Property described in this section which is amortized for 12 or 60 months shall be considered to be Section 18212 property and for the purposes of that section, "additional depreciation" means amortization adjustments in excess of the amount of depreciation adjustments which would have resulted under the straight line method.

SEC. 2. Section 24372 of the Revenue and Taxation Code is amended to read:

24372. (a) Every taxpayer at its election, shall be entitled to a deduction with respect to the amortization of the amortizable basis of any certified pollution control facility (as defined in subdivision (d)) or cogeneration equipment (as defined in subdivision (m)), based on a period of either 12 months or 60 months. Such amortization deduction shall be an amount, with respect to each month of such period within the income year, equal to the amortizable basis of the pollution control facility or cogeneration equipment at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such amortizable basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction provided by this section with respect to any month shall be in lieu of the depreciation deduction with respect to such pollution control facility or cogeneration equipment for such month provided by Section 24349. The 12-month or 60-month amortization period shall begin, as to any pollution control facility or cogeneration equipment, at the election of the taxpayer, with the month following the month in which such facility was completed or acquired, or with the succeeding income year.

(b) The election of the taxpayer to take the amortization deduction and to begin the 12-month or 60-month amortization period with the month following the month in which the facility is completed or acquired, or with the income year succeeding the income year in which such facility is completed or acquired, shall be made by filing with the Franchise Tax Board in such manner, in such form, and within such time, as the Franchise Tax Board may by regulations prescribe, a statement of such election. The election of the 12-month amortization period shall be irrevocable.

(c) A taxpayer which has elected under subdivision (b) to take the amortization deduction provided in subdivision (a) may at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Franchise Tax Board before the beginning of such month. The depreciation deduction provided under Section 24349 shall be allowed, beginning with the first month as to which the amortization deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction under this section with respect

to such pollution control facility.

(d) For purposes of this section—

(1) The term “certified pollution control facility” means a new identifiable treatment facility which is used, in connection with a plant or other property to abate or control water or atmospheric pollution or contamination by removing, altering, disposing, storing or preventing the creation or emission of pollutants, contaminants, wastes, or heat and which—

(A) The State Department of Health Services has certified as having been constructed, reconstructed, erected, or acquired in conformity with the state program or requirements for abatement or control of water or atmospheric pollution or contamination and—

(B) Does not significantly—

(i) Increase the output or capacity, extend the useful life, or reduce the total operating costs of such plant or other property (or any unit thereof), or

(ii) Alter the nature of the manufacturing or production process or facility.

(2) For purposes of paragraph (1), the term “new identifiable treatment facility” includes only tangible property (not including a building and its structural components, other than a building which is exclusively a treatment facility) which is of a character subject to the allowance for depreciation provided in Section 24349, which is identifiable as a treatment facility.

(e) The State Department of Health Services shall not certify any property to the extent it appears that by reason of profits derived through the recovery of wastes or otherwise in the operation of such property, its costs will be recovered over its actual useful life.

(f) (1) For purposes of this section, the term “amortizable basis” means that portion of the adjusted basis (for determining gain) of a certified pollution control facility or cogeneration equipment which may be amortized under this section.

(2) (A) If a certified pollution control facility or cogeneration equipment has a useful life (determined as of the first day of the first month for which a deduction is allowable under this section) in excess of 15 years, the amortizable basis of such facility shall be equal to an amount which bears the same ratio to the portion of the adjusted basis of such facility or cogeneration equipment, which would be eligible for amortization but for the application of this subparagraph, as 15 bears to the number of years of useful life of such facility or cogeneration equipment.

(B) The amortizable basis of a certified pollution control facility or cogeneration equipment with respect to which an election under this section is in effect shall not be increased, for purposes of this section, for additions or improvements after the amortization period has begun.

(g) The depreciation deduction provided by Section 24349 shall, despite the provisions of subdivision (a), be allowed with respect to the portion of the adjusted basis which is not the amortizable basis.

(h) In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.

(i) The amendment made to subdivision (d) by the 1977-78 Legislature shall apply to income years beginning after December 31, 1976. Such amendments shall not apply in the case of any property with respect to which the amortization period under this section began before January 1, 1977.

(j) The 12-month period of amortization provided for under subdivision (a) shall be available only for those certificated pollution control facilities or cogeneration equipment located in this state.

(k) This section shall not apply with respect to certified pollution control facilities placed in service after December 31, 1987, or cogeneration equipment placed in service after December 31, 1985.

(l) For purposes of this section, "cogeneration equipment" shall have the same meaning as it is described in Section 25134 of the Public Resources Code.

SEC. 2.5. Section 24372 of the Revenue and Taxation Code is amended to read:

24372. (a) Every taxpayer at its election, shall be entitled to a deduction with respect to the amortization of the amortizable basis of any certified pollution control facility (as defined in subdivision (d)), cogeneration equipment (as defined in subdivision (l)), or alternative energy equipment (as defined in subdivision (m)), based on a period of either 12 months or 60 months. Such amortization deduction shall be an amount, with respect to each month of such period within the income year, equal to the amortizable basis of the pollution control facility, cogeneration equipment, or alternative energy equipment at the end of such month divided by the number of months (including the month for which the deduction is computed) remaining in the period. Such amortizable basis at the end of the month shall be computed without regard to the amortization deduction for such month. The amortization deduction provided by this section with respect to any month shall be in lieu of the depreciation deduction with respect to such pollution control facility, cogeneration equipment, or alternative energy equipment for such month provided by Section 24349. The amortization deduction provided by this section shall be in lieu of the solar tax credit provided by Section 23601. The 12-month or 60-month amortization period shall begin, as to any pollution control facility, cogeneration equipment, or alternative energy equipment, at the election of the taxpayer, with the month following the month in which such facility was completed or acquired, or with the succeeding income year.

(b) The election of the taxpayer to take the amortization deduction and to begin the 12-month or 60-month amortization period with the month following the month in which the facility is completed or acquired, or with the income year succeeding the

income year in which such facility is completed or acquired, shall be made by filing with the Franchise Tax Board in such manner, in such form, and within such time, as the Franchise Tax Board may by regulations prescribe; a statement of such election. The election of the 12-month amortization period shall be irrevocable. The Franchise Tax Board, in determining the eligibility of alternative energy equipment for which a taxpayer has filed a statement of election, may consult with the California Energy Commission regarding the technical qualifications of such equipment.

(c) A taxpayer which has elected under subdivision (b) to take the amortization deduction provided in subdivision (a) may at any time after making such election, discontinue the amortization deduction with respect to the remainder of the amortization period, such discontinuance to begin as of the beginning of any month specified by the taxpayer in a notice in writing filed with the Franchise Tax Board before the beginning of such month. The depreciation deduction provided under Section 24349 shall be allowed, beginning with the first month as to which the amortization deduction does not apply, and the taxpayer shall not be entitled to any further amortization deduction under this section with respect to such pollution control facility.

(d) For purposes of this section—

(1) The term “certified pollution control facility” means a new identifiable treatment facility which is used, in connection with a plant or other property to abate or control water or atmospheric pollution or contamination by removing, altering, disposing, storing or preventing the creation or emission of pollutants, contaminants, wastes, or heat and which—

(A) The State Department of Health Services has certified as having been constructed, reconstructed, erected, or acquired in conformity with the state program or requirements for abatement or control of water or atmospheric pollution or contamination and—

(B) Does not significantly—

(i) Increase the output or capacity, extend the useful life, or reduce the total operating costs of such plant or other property (or any unit thereof), or

(ii) Alter the nature of the manufacturing or production process or facility.

(2) For purposes of paragraph (1), the term “new identifiable treatment facility” includes only tangible property (not including a building and its structural components, other than a building which is exclusively a treatment facility) which is of a character subject to the allowance for depreciation provided in Section 24349, which is identifiable as a treatment facility.

(e) The State Department of Health Services shall not certify any property to the extent it appears that by reason of profits derived through the recovery of wastes or otherwise in the operation of such property, its costs will be recovered over its actual useful life.

(f) (1) For purposes of this section, the term “amortizable basis”

means that portion of the adjusted basis (for determining gain) of a certified pollution control facility, cogeneration equipment, or alternative energy equipment which may be amortized under this section. For purposes of the deduction for alternative energy equipment provided in this section, the amortizable basis shall be reduced by the amount of any grant provided by a public entity for such alternative energy equipment.

(2) (A) If a certified pollution control facility, cogeneration equipment, or alternative energy equipment has a useful life (determined as of the first day of the first month for which a deduction is allowable under this section) in excess of 15 years, the amortizable basis of such facility, cogeneration equipment, or alternative energy equipment shall be equal to an amount which bears the same ratio to the portion of the adjusted basis of such facility, which would be eligible for amortization but for the application of this subparagraph, as 15 bears to the number of years of useful life of such facility, cogeneration equipment, or alternative energy equipment.

(B) The amortizable basis of a certified pollution control facility, cogeneration equipment, or alternative energy equipment with respect to which an election under this section is in effect shall not be increased, for purposes of this section, for additions or improvements after the amortization period has begun.

(g) The depreciation deduction provided by Section 24349 shall, despite the provisions of subdivision (a), be allowed with respect to the portion of the adjusted basis which is not the amortizable basis.

(h) In the case of property held by one person for life with remainder to another person, the deduction under this section shall be computed as if the life tenant were the absolute owner of the property and shall be allowable to the life tenant.

(i) The amendment made to subdivision (d) by the 1977-78 Legislature shall apply to income years beginning after December 31, 1976. Such amendments shall not apply in the case of any property with respect to which the amortization period under this section began before January 1, 1977.

(j) The 12-month period of amortization provided for under subdivision (a) shall be available only for those certificated pollution control facilities, cogeneration equipment, or alternative energy equipment located in this state.

(k) This section shall not apply with respect to certified pollution control facilities placed in service after December 31, 1987, or cogeneration equipment, or alternative energy equipment placed in service after December 31, 1985.

(l) For purposes of this section, "cogeneration equipment" shall have the same meaning as it is defined in Section 25134 of the Public Resources Code.

(m) "Alternative energy equipment" means equipment used to produce or convert energy from the following sources:

(1) Cogeneration.

- (2) Solar energy.
- (3) Geothermal energy.
- (4) Biomass energy.
- (5) Small hydroelectric energy.

(n) "Biomass energy" means the use of vegetative material to generate steam, electricity, or mechanical energy by direct burning or conversion to another form of fuel.

(o) "Solar energy" means the use of solar or wind energy devices for production of electricity, mechanical work, space heating, water heating, or industrial process heat.

(p) "Geothermal energy" means the process of using heat from the earth to generate electricity or for heating purposes.

(q) "Small hydroelectric energy" means the use of hydroelectric generating equipment with an installed capacity of less than 25 megawatts.

(r) "Cogeneration" means the use of cogeneration technology as defined in Section 25134 of the Public Resources Code. For the purposes of this section, "alternative energy equipment" shall not apply to and no claim shall be made for:

(1) Equipment for any project for which a building permit or binding financial commitment has been applied for before January 1, 1980.

(2) Equipment that uses either fossil fuel or nuclear fuel as its primary energy source.

SEC. 3. The Legislative Analyst shall report to the Legislature on or before January 1, 1984, evaluating state revenue losses, economic effects, taxpayer benefits, increase in cogeneration facilities since January 1, 1980, and the amount of cogeneration facilities attributable to this act.

SEC. 3.5. It is the intent of the Legislature, if this bill and Assembly Bill 2893 are both chaptered, both bills amend Sections 17226 and 24372 of the Revenue and Taxation Code, and this bill is chaptered after Assembly Bill 2893, that Sections 17226 and 24372 of the Revenue and Taxation Code, as amended by Sections 1 and 2 of Assembly Bill 2893 be further amended on the operative date of this act in the form set forth in Sections 1.5 and 2.5 of this act to incorporate the changes in Sections 17226 and 24372 proposed by this bill. Therefore, Sections 1.5 and 2.5 of this act shall become operative only if this bill and Assembly Bill 2893 are both chaptered, both amend Sections 17226 and 24372, and this bill is chaptered after Assembly Bill 2893, in which case Sections 1 and 2 of this act shall not become operative.

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 be applied in the computation of taxes for taxable years beginning on or after the first day of the calendar year in which this act becomes effective provided the effective date is more than 90 days prior to the last day of the calendar year. If the effective date is 90 days or less prior to the last

day of the calendar year, the provisions of this act shall apply in the computation of taxes for taxable years beginning on or after the first day of the calendar year following the effective date.

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## CHAPTER 1329

An act to amend Sections 41020, 44670.3, 48263, 48291, 48293, 48294, 51745, 52015, 52176, and 56194 of, to add Sections 46013 and 46013.7 to, and to add Article 9 (commencing with Section 48340) to Chapter 2 of Part 27 of, the Education Code, relating to school attendance, making an appropriation therefor.

[Approved by Governor September 30, 1980. Filed with Secretary of State September 30, 1980.]

I am reducing the appropriations contained in Section 16 of Assembly Bill No. 3269 for the proposed pilot attendance program from \$1,750,000 to \$875,000 for each of the fiscal years 1980-81, 1981-82, and 1982-83.

With this reduction, I approve AB 3269.

EDMUND G. BROWN JR., Governor

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

**SECTION 1.** The Legislature hereby finds that, for purposes of existing law, average daily attendance is defined for regular programs in kindergarten and grades 1 to 12, inclusive, as actual attendance of a pupil plus those verified absences specified in Section 46010 of the Education Code. Consequently, the days of verified absence, as well as the days of actual attendance, are considered days of attendance for purposes of computing apportionments. The combination of these apportionment days of attendance, generally speaking, are used to compute average daily attendance by dividing the apportionment days by the actual days taught within the reporting periods as prescribed in Section 41601 of the Education Code. It is the intent of the Legislature in adding Sections 46013, 46013.5, and 46013.7 to the Education Code by this act to redefine for purposes of computing apportionments the concept of average daily attendance for use in a pilot study using actual pupil attendance and a fixed percentage of enrollment and thereby eliminating the current verification of absence process.

**SEC. 2.** Section 41020 of the Education Code is amended to read:  
**41020.** It is the intent of the Legislature to encourage sound fiscal management practices among school districts for the most efficient and effective use of public funds for the education of children in California by strengthening fiscal accountability at the district, county, and state levels.

Not later than the first day of May of each fiscal year each county superintendent of schools shall provide for an audit of all funds under his jurisdiction and control and the governing board of each district

shall either provide for an audit of the books and accounts of the district, including an audit of school district income and expenditures by source of funds, or make arrangements with the county superintendent of schools having jurisdiction over the district to provide for such auditing. In the event the governing board of a school district has not provided for an audit of the books and accounts of the district by April 1st, the county superintendent of schools having jurisdiction over the district shall provide for the audit.

Each audit shall include all funds of the district including the student body and cafeteria funds and accounts and any other funds under the control or jurisdiction of the district; funds of regional occupational centers and programs maintained by the county superintendent of schools, a school district, or pursuant to a joint powers agreement. Each audit shall also include an audit of attendance procedures.

The cost of the audits provided for by the county superintendent of schools shall be paid from the county school service fund and the county superintendent of schools shall transfer the pro rata share of the cost chargeable to each district from district funds.

The cost of the audit provided for by a governing board shall be paid from district funds. The audit of the funds under the jurisdiction and control of the county superintendent of schools shall be paid from the county school service fund.

The audits shall be made by a certified public accountant or a public accountant, licensed by the State Board of Accountancy.

The auditor's report shall include (1) a statement that the audit was conducted pursuant to standards and procedures developed in accordance with Section 41020.5 and (2) a summary of audit exceptions and management improvement recommendations.

Not later than November 15th, a report of each audit for the preceding fiscal year shall be filed with the county clerk and the county superintendent of schools of the county in which the district is located, the Department of Education, and the Department of Finance. The submission date may be extended to, but not later than, December 31 for justifiable cause upon written request by the auditor and approval by the county superintendent of schools. The Superintendent of Public Instruction shall make any adjustments necessary in future apportionments of all state funds, to correct any audit exceptions revealed by such audit reports.

Each county superintendent of schools shall be responsible for the correction of any audit exceptions revealed by audit reports issued pursuant to this section which do not affect state funds and are not corrected by the Superintendent of Public Instruction when the audit exceptions affect any revenue and expenditures under his control or the control of any school district within his jurisdiction. The county superintendent of schools shall adjust the future local property tax requirements to correct audit exceptions relating to school district tax rates and tax revenues.

If a governing board or county superintendent of schools fails or

is unable to make satisfactory arrangements for audit pursuant to this section, the Department of Finance shall make arrangements for the audit and the cost of such audit shall be paid from school district funds or the county school service fund, as the case may be.

Audits of regional occupational centers and programs are subject to the provisions of this section.

Nothing in this section shall be considered as authorizing examination into or report on the curriculum used or provided for in any school district.

SEC. 3. Section 44670.3 of the Education Code is amended to read:

44670.3. Staff development programs authorized by this article shall assist personnel at the local school site to:

(a) Improve instructional, human development and counseling skills based on a systematic assessment of pupil and personnel needs at that school.

(b) Ensure that curricula and instructional materials are keyed to the educational needs of each pupil, with particular emphasis on pupils who have not achieved proficiency in basic reading, writing and computational skills, limited and non-English-speaking pupils, disadvantaged pupils, and pupils with exceptional abilities or needs.

(c) Develop curricula and instructional materials in a wide variety of areas such as arts and humanities, physical, natural, and social sciences, physical and mental health, and career education.

(d) Improve the school and classroom environments, including relationships between and among pupils, school personnel and community members, including parents.

(e) Improve pupil attendance.

(f) Maintain an awareness of current information concerning the use of drugs and other controlled substances which affect campus safety and pupil achievement.

SEC. 4. Section 46013 is added to the Education Code, to read:

46013. (a) If there is an increase in actual student attendance of any school maintained by a school district to which Section 46013.7 has been made applicable, then an increase in the revenue limit of a school district shall be calculated as follows:

(1) The Superintendent of Public Instruction shall prescribe the manner in which actual student attendance is calculated.

(2) Divide the actual student attendance in the 1979-80 fiscal year by total enrollment in the 1979-80 fiscal year.

(3) Divide the actual student attendance in the current fiscal year by total enrollment in the current fiscal year.

(4) Subtract the quotient calculated pursuant to paragraph (2) from the quotient calculated pursuant to paragraph (3).

(5) Divide the difference calculated pursuant to paragraph (4) by 0.02.

(6) If the quotient calculated pursuant to paragraph (5) is equal to or greater than one, then divide that quotient by 100.

(7) If the quotient calculated pursuant to paragraph (5) is less

than one, then the district shall not be affected by the provisions of this section.

(8) Multiply the quotient calculated pursuant to paragraph (6) by the revenue limit per unit of average daily attendance in the current fiscal year, and multiply that product by the total enrollment of the school which generated the increased actual student attendance. This is the amount by which revenue limit shall be increased.

(b) The revenue limit increase calculated pursuant to subdivision (a) shall be allocated as follows:

(1) If the school receives funds pursuant to either Chapter 3.1 (commencing with Section 44670) of Part 25 or Chapter 6 (commencing with Section 52000) of Part 28, then one-half of the increase shall be added to such funds; the other half of the increase shall be added to the general fund of the district.

(2) If the school does not receive funds pursuant to either Chapter 3.1 (commencing with Section 44670) of Part 25 or Chapter 6 (commencing with Section 52000) of Part 28, then one-half of the increase shall be used to initiate a program pursuant to Chapter 6 (commencing with Section 52000) of Part 28 at the school; the other half of the increase shall be added to the general fund of the district. If a program is not initiated pursuant to Chapter 6 (commencing with Section 52000) of Part 28 within one year, then those funds shall be deposited in the general fund of the district and the apportionment of funds to the district from Section A of the State School Fund for the then current fiscal year shall be reduced by the same amount.

SEC. 5. Section 46013.7 is added to the Education Code, to read:

46013.7. The Superintendent of Public Instruction shall make the provisions of this section and Section 46013 available to 25 elementary school districts, 25 unified school districts, and 10 high school districts for the 1980-81 school year and shall not require such districts to keep parallel attendance accounting and reporting procedures as required under existing laws otherwise applicable. School districts desiring to utilize this section and Section 46013 shall apply to the Superintendent of Public Instruction for approval. In approving applications, the Superintendent of Public Instruction shall ensure that no more than 2½ percent of the statewide average daily attendance shall be subject to the provisions of this section and Section 46013.

SEC. 6. Section 48263 of the Education Code is amended to read:

48263. If any minor pupil in any district of a county is an habitual truant, or is irregular in attendance at school, as defined in this article, or is habitually insubordinate or disorderly during attendance at school, the pupil may be referred to a school attendance review board. The supervisor of attendance, or such other persons as the governing board of the school district or county may designate, making such referral shall notify the minor and parents or guardians of the minor, in writing, of the name and address of the board to which the matter has been referred and of the reason for such

referral. The notice shall indicate that the pupil and parents or guardians of the pupil will be required, along with the referring person, to meet with the school attendance review board to consider a proper disposition of the referral.

If the school attendance review board determines that available community services can resolve the problem of the truant or insubordinate pupil, then the board shall direct the pupil or the pupil's parents or guardians, or both, to make use of such community services. The school attendance review board may require, at such time as it determines proper, the pupil or parents or guardians of the pupil, or both, to furnish satisfactory evidence of participation in the available community services.

If the school attendance review board determines that available community services cannot resolve the problem of the truant or insubordinate pupil or if the pupil or the parents or guardians of the pupil, or both, have failed to respond to directives of the school attendance review board or to services provided, the school attendance review board may direct the county superintendent of schools to, and, thereupon, the county superintendent of schools shall, request a petition on behalf of the pupil in the juvenile court of the county. Upon presentation of a request for a petition on behalf of a pupil, the juvenile court of the county shall hear all evidence relating to the request for petition. The school attendance review board shall submit to the juvenile court documentation of efforts to secure attendance as well as its recommendations on what action the juvenile court shall take in order to bring about a proper disposition of the case.

SEC. 7. Section 48291 of the Education Code is amended to read:

48291. If it appears upon investigation that any parent, guardian, or other person having control or charge of any child has violated any of the provisions of this chapter, the secretary of the board of education, except as provided in Section 48292, or the clerk of the board of trustees, shall refer such person to a school attendance review board. In the event that any such parent, guardian, or other person continually and willfully fails to respond to directives of the school attendance review board or services provided, the school attendance review board shall direct the school district to make and file in the proper court a criminal complaint against the parent, guardian, or other person, charging the violation, and shall see that the charge is prosecuted by the proper authority. In the event that a criminal complaint is not prosecuted by the proper authority as recommended, the official making the determination not to prosecute shall provide the school attendance review board with a written explanation for the decision not to prosecute.

SEC. 8. Section 48293 of the Education Code is amended to read:

48293. (a) Any parent, guardian, or other person having control or charge of any pupil who fails to comply with the provision of this chapter, unless excused or exempted therefrom, is guilty of an infraction, and shall be punished as follows:

(1) Upon a first conviction, by a fine of not more than one hundred dollars (\$100).

(2) Upon a second or subsequent conviction, by a fine of not more than two hundred fifty dollars (\$250).

(3) In lieu of imposing the fines prescribed in paragraphs (1) and (2), the court may order such person to be placed in a parent education and counseling program.

(b) A judgment that a person convicted of an infraction be punished as prescribed in subdivision (a) may also provide for the payment of the fine within a specified time or in specified installments, or for participation in the program. A judgment granting a defendant time to pay the fine or prescribing the days of attendance in a program shall order that if the defendant fails to pay the fine, or any installment thereof, on the date that it is due, or fails to attend a program on a prescribed date, he or she shall appear in court on that date for further proceedings. Willful violation of the order is punishable as contempt.

SEC. 9. Section 48294 of the Education Code is amended to read: 48294. All fines paid as penalties for the violation of any of the provisions of this chapter shall, when collected or received, be paid over by the justice court or officer receiving them to the treasurer of the city, county, or city and county, in which the offense was committed, to be placed to the credit of the school fund of the school district in which the offense was committed. Such moneys shall be used to support the activities of the school attendance review board prescribed by Section 48291 and the parent education and counseling program prescribed by Section 48293.

SEC. 10. Article 9 (commencing with Section 48340) is added to Chapter 2 of Part 27 of the Education Code, to read:

#### Article 9. Improvement of Pupil Attendance

48340. In enacting this article it is the intent of the Legislature to encourage school districts and county offices of education maintaining any classes in kindergarten and grades 1 to 12, inclusive, to adopt pupil attendance policies based on the active involvement of parents, pupils, teachers, administrators, other personnel, and community members which include proposals and procedures for the following:

(a) Notifying parents of pupil absences, including notification of parents on the day of each absence.

(b) Increasing parent and pupil awareness of the importance of regular pupil attendance.

(c) Auditing and accountability of pupil attendance.

(d) Staff development for certificated and classified personnel.

(e) Alternative learning programs designed to respond to the different ways pupils learn, such as independent study.

(f) Joint efforts between law enforcement and schools, such as school level attendance review teams and periodic efforts to return

truant pupils to school.

48341. The Superintendent of Public Instruction shall prepare and disseminate to school districts and county superintendents of schools information regarding effective practices to improve pupil attendance.

48342. The governing board of each school district shall annually disclose to the public actual pupil attendance rates in the district.

SEC. 10.5. Section 51745 of the Education Code is amended to read:

51745. (a) The governing board of a school district or county board of education, either of which maintains an elementary or secondary school, or an opportunity school or program, or a continuation high school, or summer school, or a work experience program, or a special education program, may adopt rules and regulations which authorize any pupil enrolled in the elementary school, secondary school, opportunity school or program, continuation high school, summer school, work experience program, special education program, to enroll in an independent study program of the district or board, except as provided in subdivision (d).

(b) Not more than 10 percent of the pupils enrolled in an opportunity school or program, or a continuation high school, shall participate in an independent study program pursuant to this article.

(c) An independent study program shall be coordinated, evaluated, and under the general, but not necessarily immediate, supervision of an employee of the district or county board who possesses a valid certification document.

(d) No individual with exceptional needs, as defined in Section 56026, may be enrolled in an independent study program, unless his or her individualized education program developed pursuant to Article 3 (commencing with Section 56340) of Chapter 4 of Part 30 specifically provides for such enrollment.

SEC. 11. Section 52015 of the Education Code is amended to read:

52015. Each plan shall include:

(a) Curricula, instructional strategies, and materials responsive to the individual educational needs and learning styles of each pupil which enable all pupils to:

(1) Make continuous progress and learn at a rate appropriate to their abilities.

(2) Master basic skills in language development and reading, writing, and mathematics pursuant to Sections 51215 and 51216.

(3) Develop knowledge and skills in other aspects of the curriculum, such as arts and humanities; physical, natural, and social sciences; multicultural education; physical, emotional, and mental health; consumer economics; and career education.

(4) Pursue educational interests and develop esteem for self and others, personal and social responsibility, critical thinking, and independent judgment.

Consideration shall be given to the use of community resources,

such as museums, libraries, and communications media, to achieve instructional improvement objectives.

(b) Instructional and auxiliary services to meet the special needs of non-English-speaking or limited-English-speaking pupils, including instruction in a language such pupils understand; educationally disadvantaged pupils; and pupils with exceptional abilities or needs.

(c) A staff development program for teachers, other school personnel, paraprofessionals, and volunteers as provided in Section 52019.

(d) Improvement of the classroom and school environments, including improvement of relationships between and among pupils, school personnel, parents, and the community, and reduction of the incidence among pupils of violence and vandalism.

(e) Other objectives as established by the council.

(f) The proposed expenditure of allowances provided pursuant to Article 4 (commencing with Section 52045) of this chapter and other state or local funds available to support the school improvement program.

(g) Ongoing evaluation and modification of the school improvement plan by the council based on information regarding:

(1) The degree to which the school is meeting its improvement objectives as assessed by parents, teachers, other school personnel, and pupils.

(2) Student achievement.

(3) Improved school environment as measured by indicators such as (A) the incidence among pupils of absenteeism, suspension, expulsion, and dropouts and the incidence and costs of school violence, vandalism, and theft of school or private property while participating in school activities, (B) pupil attitudes toward school, self, and others, (C) incidence of absenteeism, resignations and requests for transfers among teachers and other school personnel, and (D) satisfaction of teachers, pupils, parents, administrators, and other school personnel with school services and decisionmaking processes.

(4) The degree to which fiscal expenditures meet the criteria of the school improvement plan.

(h) Improvement of pupil attendance, including parent awareness of the importance of regular school attendance.

SEC. 12. Section 52176 of the Education Code is amended to read:

52176. (a) Each school district with more than 50 limited-English-speaking pupils shall establish a districtwide advisory committee on bilingual education. Parents or guardians, or both, of limited-English-speaking pupils who are not employed by the district shall constitute a majority of the committee, unless the district designates for this purpose an existing districtwide advisory committee on which parents or guardians, or both, of limited-English-speaking pupils have membership in at least the same percentage as their children and wards represent of the total

number of pupils in the district, provided that a subcommittee on bilingual-bicultural education on which parents or guardians, or both, of limited-English-speaking pupils constitute a majority is established. The district advisory committee and subcommittee, if applicable, shall be responsible for at least six specific tasks. These tasks shall be to advise the district governing board regarding:

(1) Establishment of a timetable for development of a district master plan for bilingual education.

(2) Districtwide needs assessment on a school-by-school basis.

(3) Establishment of district program goals and objectives in bilingual education.

(4) Recommendations as to which schools to include in each phase of expansion.

(5) A plan to ensure compliance with the provisions of Section 52178.

(6) Administration of the annual language census.

(b) Each school with more than 20 limited-English-speaking pupils shall establish a school level advisory committee on which parents or guardians, or both, of limited-English-speaking pupils constitute membership in at least the same percentage as their children and wards represent of the total number of pupils in the school. The school may designate for this purpose an existing school level advisory committee, or subcommittee of such an advisory committee, provided the advisory committee, or subcommittee where appropriate, meets the criteria stated above.

(c) Each school advisory committee maintained pursuant to this section shall be responsible for advising the principal and staff in the development of a detailed master plan for bilingual education for the individual school and submitting the plan to the governing board for consideration for inclusion in the district master plan. It shall also be responsible for assisting in the development of the school needs assessment and language census and in the development of ways to make parents aware of the importance of regular school attendance.

The Department of Education shall develop guidelines for the selection of advisory committees established or maintained pursuant to this section.

SEC. 13. Section 56194 of the Education Code, as added by Chapter 797 of the Statutes of 1980, is amended to read:

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.

(f) Assisting in parent education, including parent awareness of the importance of regular school attendance, and in recruiting parents and other volunteers who may contribute to the implementation of the plan.

SEC. 14. It is the intent of the Legislature that the Educational Management and Evaluation Commission of the State Board of Education review the findings of any task force of the Department of Education on school attendance, and that the commission report its recommendations to the State Board of Education.

SEC. 15. (a) It is the intent of the Legislature that students obtain the maximum benefit from instruction provided in the public schools. It is, therefore, the further intent of the Legislature that school districts develop procedures to ensure that students attend school for the entire schoolday.

It is the further intent of the Legislature that every pupil whose attendance is included in the computation of average daily attendance shall be in school for the minimum schoolday prescribed by Chapter 2 (commencing with Section 46100) of Part 26 of the Education Code.

(b) It is the further intent of the Legislature that procedures developed pursuant to subdivision (a) not constitute a burden on school districts in terms of personnel or fiscal resources.

SEC. 16. For each of the fiscal years 1980-81, 1981-82 and 1982-83, there is hereby appropriated annually from the General Fund in the State Treasury to Section A of the State School Fund the amount of one million seven hundred fifty thousand dollars (\$1,750,000) to be allocated for the purposes of funding the pilot project established in Section 46013 of the Education Code.

SEC. 17. 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.

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## CHAPTER 1330

An act to amend Section 53691 of the Government Code, to amend Sections 33750, 33751.5, and 37917 of, and to add and repeal Section 33760.5 of, the Health and Safety Code, relating to housing.

[Approved by Governor September 30, 1980. Filed with  
Secretary of State September 30, 1980.]

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

SECTION 1. Section 53691 of the Government Code is amended to read:

53691. Notwithstanding any other provision of law, no financial or securities consultant acting in an advisory capacity to a local agency with respect to the issuance or proposed issuance of securities which exceed one million dollars (\$1,000,000) shall act in the capacity of an underwriter for the purpose of acquiring any interest in such security issue offered by the local agency, unless:

- (a) The securities are offered at a competitive public sale;
- (b) The consultant has given the local agency written notice that the consultant intends to bid on the offering; and
- (c) The local agency has given written consent for the consultant to act as an underwriter at such sale.

SEC. 2. Section 33750 of the Health and Safety Code is amended to read:

33750. The Legislature finds and declares that it is necessary and essential that redevelopment agencies be authorized to make long-term, low-interest loans through qualified mortgage lenders to finance residential construction in order to encourage investment and upgrade redevelopment project areas and increase the supply of housing. Unless redevelopment agencies intervene to generate mortgage funds and to provide some form of assistance to finance residential construction, many redevelopment areas will stagnate and deteriorate because owners and investors are not able to obtain loans from private sources.

SEC. 3. Section 33751.5 of the Health and Safety Code is amended to read:

33751.5. The Legislature further finds and declares that the construction and rehabilitation of residences intended for occupancy primarily by persons and families of low or moderate income, as defined in Section 50093, is properly included within redevelopment plans whether or not such construction or rehabilitation is to occur within a redevelopment area, since redevelopment agencies have specific obligations for development of housing whether or not such development is feasible within specific redevelopment project areas.

SEC. 4. Section 33760.5 is added to the Health and Safety Code, to read:

33760.5. (a) Notwithstanding the requirements of Section 33760, agencies which operate within a jurisdiction, the population of which is in excess of 600,000 persons, as determined by the Department of Finance, may provide financing for residential construction of multifamily rental units as set forth in and subject to the limitations of this section.

- (b) Within its territorial jurisdiction, an agency may determine

the location and character of any residential construction to be financed under the provisions of this chapter and may make mortgage or construction loans to participating parties through qualified mortgage lenders, or purchase mortgage or construction loans without premium made by qualified mortgage lenders to participating parties for financing residential construction of multifamily rental units intended for occupancy primarily by persons and families of low or moderate income, as defined in Section 50093, outside of a redevelopment area.

(c) Not less than 20 percent of the total number of multifamily rental units outside of a project area financed or for which financing has been extended or committed pursuant to this chapter during any calendar year shall be occupied by, or made available to, lower-income households, as defined in Section 50079.5. Not less than 10 percent of the total number of such rental units shall be occupied by, or made available to, very low-income households, as defined in Section 50105.

(d) The provisions of subdivision (c) shall apply for a period of not less than 20 years from the date units financed pursuant to this section are first made available for occupancy. However, in the event federal rent subsidies become unavailable to tenants and projects in the agency's jurisdiction, the requirements of this subdivision and subdivision (c) shall not apply.

(e) 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 such date, deletes or extends such date.

SEC. 5. Section 37917 of the Health and Safety Code is amended to read:

37917. The local agency may fix fees, charges, and interest rates for financing residential rehabilitation and may from time to time revise such fees, charges, and interest rates to reflect changes in interest rates on the local agency's bonds, losses due to defaults, changes in loan servicing charges, or other expenses related to administration of the residential rehabilitation financing program. Any change in interest rate shall conform to the provisions of Section 1916.5 of the Civil Code, except that paragraph (3) of subdivision (a) of Section 1916.5 shall not apply and that the "prescribed standard" specified in Section 1916.5 shall be periodically determined by the governing body of the local agency after hearing preceded by public notice to affected parties, and shall reflect changes in interest rates on the local agency's bonds, losses due to defaults, and bona fide changes in loan servicing charges related to the administration of a program under the provisions of this part.

The local agency may purchase loans made to participating parties by qualified mortgage lenders without premium, if the loan was approved for such purpose prior to consummation of the loan and is of the character and on the terms previously established by the local agency for the residential rehabilitation program. The local agency may fix fees for servicing of such loans by qualified mortgage lenders,

or may itself undertake collection, or may contract to pay any person, partnership, association, corporation, or public agency for such collection and disbursal. In determining fees and charges for financing and servicing of loans by qualified mortgage lenders, the local agency shall endeavor to obtain participation of not less than two qualified mortgage lenders, and shall apply the same fees and charges to all participating qualified mortgage lenders.

The local agency may hold deeds of trust or mortgages, including, but not limited to, mortgages insured under Title II of the National Housing Act (12 U.S.C., 1707 et seq.), as security for financing residential rehabilitation and may pledge or assign the same as security for repayment of bonds issued pursuant to this part. The local agency may establish the terms and conditions for the financing of residential rehabilitation undertaken pursuant to this part, and may require that any note evidencing a loan made to a participating party be insured or guaranteed, in whole or in part, by an instrumentality of the United States or of the State of California or by a person licensed to insure mortgages in this state. Notwithstanding any other provision of law, any person licensed to insure mortgages or to write residential mortgage guarantee insurance in the state shall be authorized to insure or guarantee, in whole or in part, any loan made for residential rehabilitation, excluding residential infill construction, pursuant to and in accordance with the provisions of this part, and such insurance shall not exceed 95 percent of the after-rehabilitation value of the property subject to such loan. Such insurance may include insurance of construction advances for purposes of residential rehabilitation and need not require completion of said residential rehabilitation for payment of claims thereunder.

Such notes, deeds of trust, or mortgages may be assigned to, and held on behalf of the local agency by, any bank or trust company appointed to act as trustee or fiscal agent by the local agency in any indenture or resolution providing for issuance of bonds pursuant to this part.

Notwithstanding Section 711 of the Civil Code, the full amount owed on any loan for residential rehabilitation made pursuant to this part shall be due and payable upon sale or other transfer of ownership of the property subject to such rehabilitation, except that assignment of the loan to the buyer or transferee may be permitted where required by the federal or state insurer or in cases of hardship, which shall be defined, and procedures established for the determination of their existence, in the guidelines established pursuant to subdivision (c) of Section 37922.

## CHAPTER 1331

An act to amend Sections 33750, 33753, 33760, 33775, and 33780 of, and to add Section 52053.5 and 52056 to, the Health and Safety Code, relating to housing, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1980. Filed with  
Secretary of State September 30, 1980 ]

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

SECTION 1. Section 33750 of the Health and Safety Code is amended to read:

33750. The Legislature finds and declares that it is necessary and essential that redevelopment agencies be authorized to make long-term, low-interest loans through qualified mortgage lenders to finance residential construction in redevelopment project areas in order to encourage investment and upgrade such areas. Unless redevelopment agencies intervene to generate mortgage funds and to provide some form of assistance to finance residential construction, many redevelopment areas will stagnate and deteriorate because owners and investors are not able to obtain loans from private sources.

The Legislature further finds and declares that financing of rehabilitation, as provided in this chapter, serves an essential public purpose for the economic renewal of our cities.

SEC. 2. Section 33753 of the Health and Safety Code is amended to read:

33753. The definitions set forth in Article 1 (commencing with Section 33000) of Chapter 1 of this part shall govern the construction of this chapter. Additionally, as used in this chapter:

(a) "Construction loan" means a loan to finance residential construction under this chapter, whether such loan is insured or uninsured.

(b) "Financing" means the lending of moneys or any other thing of value for the purpose of facilitating residential construction pursuant to this chapter, including the making of construction loans and mortgage loans to purchasers of newly constructed and newly rehabilitated residences and the making of loans to qualified mortgage lenders.

(c) "Local codes" means applicable local, state and federal standards for residential construction or rehabilitation, including any higher standards adopted by the agency for a redevelopment project area or as part of its redevelopment program.

(d) "Mortgage loan" means a long-term loan which is secured by a mortgage and is made for permanent financing of residences, pursuant to this chapter.

(e) "Participating party" means any person, corporation,

partnership, firm, or other entity or group of entities requiring financing for residential construction pursuant to the provisions of this chapter. No elective officer of the state or any of its political subdivisions or employee of any redevelopment agency shall be eligible to be a participating party under the provisions of this chapter.

(f) "Qualified mortgage lender" means a mortgage lender authorized by a redevelopment agency to do business with the agency and to aid in financing pursuant to this chapter on behalf of the agency, for which service the qualified mortgage lender will be reasonably compensated. Such a mortgage lender shall be a state or national bank, federal or state-chartered savings and loan association, or trust company or mortgage banker which is capable of providing service or otherwise aiding in the financing of mortgages on residential construction within the jurisdiction of the agency. Nothing in any other provision of state law shall prevent such a lender from serving as a qualified mortgage lender pursuant to this chapter.

(g) "Redevelopment project area" means a project area, as defined in Section 33320.1, for which a final redevelopment plan has been adopted pursuant to Section 33365.

(h) "Rehabilitation" means repairs and improvements to a substandard residence necessary to make it meet local codes. As used in this section, "substandard residence" has the same meaning as the term "substandard building," as defined in Section 17920.3, except that "substandard residence" shall include all property improved with any structure defined in subdivision (j) of this section as a "residence," with respect to which any of the conditions listed in Section 17920.3 exist.

(i) "Residential construction" means the construction of new residences or the rehabilitation and improvement of substandard residences to meet requirements of local codes and the redevelopment plan.

(j) "Residence" means real property improved with a residential structure and within a redevelopment project area real property improved with a commercial structure (or structures) or a mixed residential and commercial structure, which the redevelopment agency determines to be an integral part of a residential neighborhood. For purposes of determining the integrality of new construction for such purpose, a proposed commercial or mixed residential and commercial structure shall be located within or immediately adjacent to a neighborhood primarily residential in character.

New construction of any commercial structure, or of the commercial portion of any mixed residential and commercial structure, financed under this chapter shall not exceed 80,000 square feet of gross building area per development. Any suit challenging such finding shall be filed within 60 days, or the findings of the agency shall be conclusive.

An agency may not provide long-term financing pursuant to this chapter for new construction of a commercial structure or the commercial portion of a mixed residential and commercial structure if conventional financing in an amount sufficient to complete the construction has been obtained for the construction of such structure or portion thereof.

Prior to the financing of any commercial structure within a redevelopment project area, the agency shall adopt a financing plan by resolution, which may include commercial and residential structures. The square footage of the commercial structures shall not exceed 30 percent of the aggregate square footage of all the commercial and residential structures within the project area and financed pursuant to the financing plan. The financing plan for the commercial and residential structures shall include structures that have been, or are being, financed pursuant to this chapter or under federal or state financial assistance programs or local assistance programs of any kind whatsoever. However, such a financing plan shall not be required for an agency that has financed residential structures with the proceeds of bonds issued prior to the effective date of the amendment to this section enacted during the 1980 portion of the 1979-80 Regular Session, nor shall such amendments affect the validity of the tax-exempt status of bonds issued pursuant to this chapter prior to such date.

Additionally, any financing for a commercial structure or a mixed residential and commercial structure authorized or preliminarily approved by resolution adopted by a redevelopment agency or community development commission established pursuant to Section 33201 either (1) on or before June 3, 1980, in furtherance of which the agency or any person or entity has expended substantial funds or committed to reimburse another person or entity which has expended substantial funds, or (2) before October 31, 1980, in furtherance of which the agency has expended funds in connection with such financing or plans relating to such financing if the structure to be financed is located within a city designated pursuant to Section 119 of federal Public Law 95-128, as amended, or within a city designated as of the effective date of the amendments to this section enacted during the 1980 portion of the 1979-80 Regular Session under Title IX of federal Public Law 89-136, as amended, as a long-term economic deterioration area, or financing for a commercial structure or mixed residential and commercial structure as to which bonds have been delivered on or before July 31, 1980 (without regard to the date the bonds were authorized or received preliminary approval), shall not be subject to new requirements or conditions of this subdivision enacted during the 1980 portion of the 1979-80 Regular Session.

"Residence" includes condominium and cooperative dwelling units, and includes both real property improved with single-family residential structures and real property improved with multiple-family residential structures.

(k) "Revenue bonds" means any bonds, notes, interim certificates, debentures, or other obligations issued by an agency pursuant to this chapter and which are payable exclusively from revenues and from any other funds specified in this chapter upon which the revenue bonds may be made a charge and from which they are payable.

(l) "Revenues" means all amounts received as repayment of principal, interest, and all other charges received for, and all other income and receipts derived by, the redevelopment agency from the financing of residential construction, including moneys deposited in a sinking, redemption, or reserve fund or other fund to secure the revenue bonds or to provide for the payment of the principal of, or interest on, the revenue bonds.

SEC. 3. Section 33760 of the Health and Safety Code is amended to read:

33760. Within its territorial jurisdiction, an agency may determine the location and character of any residential construction to be financed under the provisions of this chapter and may make mortgage or construction loans to participating parties through qualified mortgage lenders, or purchase mortgage or construction loans without premium made by qualified mortgage lenders to participating parties, or make loans to qualified mortgage lenders, for financing (1) residential construction within a redevelopment project area or (2) residential construction of residences in which the dwelling units 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. Any loans to qualified mortgage lenders shall be made under terms and conditions which, in addition to other provisions as determined by the agency, shall require the qualified mortgage lender to use all of the net proceeds thereof, directly or indirectly, for the making of mortgage loans or construction loans in an appropriate principal amount equal to the amount of such net proceeds; such mortgage loans may, but need not, be insured.

SEC. 4. Section 33775 of the Health and Safety Code is amended to read:

33775. (a) An agency may, from time to time, issue its negotiable revenue bonds for the purpose of making or purchasing mortgage or construction loans, or making loans to qualified mortgage lenders, to finance residential construction. In anticipation of the sale of bonds, the agency may issue negotiable bond anticipation notes and may renew such notes from time to time. Bond anticipation notes may be paid from the proceeds of sale of the bonds of the agency in anticipation of which they were issued. Bond anticipation notes and agreements relating thereto and the resolution or resolutions authorizing such notes and agreements may contain any provisions, conditions, or limitations which a bond, agreement relating thereto, or bond resolution of the agency may contain except that any such

note or renewal thereof shall mature at a time not later than two years from the date of the issuance of the original note.

(b) Every issue of its revenue bonds shall be a special obligation of the redevelopment agency payable from all or any part of the revenues specified in this chapter. The revenue bonds shall be negotiable instruments for all purposes, subject only to the provisions of such bonds for registration.

SEC. 5. Section 33780 of the Health and Safety Code is amended to read:

33780. In the discretion of the agency, any revenue bonds issued under the provisions of this chapter may be secured by a trust agreement by and between the agency and a corporate trustee or trustees, which may be any trust company or bank having the powers of a trust company within or without this state. Such a trust agreement or the resolution providing for the issuance of revenue bonds may pledge or assign the revenues to be received or proceeds of any contract or contracts pledged, and may convey or mortgage any residence the construction of which is to be financed out of the proceeds of such revenue bonds. Such trust agreement or the resolution providing for the issuance of bonds may provide for the assignment to such corporate trustee or trustees of mortgage or construction loans or loans to qualified mortgage lenders, to be held by such trustee or trustees on behalf of the agency for the benefit of the bondholders. Such trust agreement or resolution providing for the issuance of revenue 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 such provisions as may be included in any resolution or resolutions of the agency authorizing the issuance of the revenue bonds. Any bank or trust company doing business under the laws of this state which may act as depositary of the proceeds of revenue bonds or of revenues or other moneys may furnish such indemnity bonds or pledge such securities as may be required by the agency. 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 agency may deem reasonable and proper for the security of the bondholders. All expenses incurred in carrying out the provisions of such trust agreement or resolution may be treated as a part of the cost of residential construction.

SEC. 6. Section 52053.5 is added to the Health and Safety Code, to read:

52053.5. Notwithstanding subdivision (b) of Section 52053 or any of the limitations of this part:

(a) Until July 1, 1981, a charter city having seven community development districts established for purposes of Section 105(a) (8) of Public Law 93-383, as amended, and which, prior to February 1, 1980, issued revenue bonds to finance mortgage loans on homes, may

issue not more than thirty-three million dollars (\$33,000,000) of additional revenue bonds pursuant to local ordinance to make or purchase mortgage loans on homes as defined in Section 52012, subject to the following conditions:

(1) For mortgage loans on homes located within such a community development district, the income of a purchaser shall not exceed 150 percent of the median income within the city.

(2) For a home located outside of a community development district, the income of a purchaser shall not exceed 120 percent of the city's area median income.

(3) The maximum purchase price for a home not undergoing rehabilitation in connection with financing pursuant to this subdivision shall not exceed the median purchase price of homes in the city.

(4) The maximum loan amount for homes undergoing rehabilitation in connection with financing pursuant to this subdivision shall not exceed the median purchase price of a home in the city.

(b) Until July 1, 1981, a city and county may issue not more than sixty million dollars (\$60,000,000) of revenue bonds pursuant to local ordinance for the purpose of financing the purchase of residential housing units under the following conditions:

(1) The proceeds of the bonds will be used in combination with subsidy moneys made available through grant programs such as the Urban Development Action Grant, the Community Development Block Grant or other similar federal, state, or local subsidies to finance the purchase of residential housing under an ownership or financing arrangement which provides for the sharing of equity appreciation between one or more occupants of each property and the city and county (or an entity acting on its behalf).

(2) The revenue bonds and subsidy moneys shall provide for the following:

(A) At least 50 percent of the participants of the program shall be lower income households, as defined in Section 50079.5, unless the city and county makes a finding that this requirement cannot be achieved, in which case at least 40 percent of the participants of the program shall be lower income households.

(B) Not more than 25 percent of the participants of the program may be persons and families whose incomes are between 120 percent and 140 percent of the area median income, and not less than 25 percent shall be between 80 percent and 120 percent of the area median income.

(C) Not less than 30 percent of the residential housing units financed pursuant to this subdivision shall be units where the participant in the program is the first occupant, or units which are being substantially rehabilitated. As used in this subparagraph, "substantial rehabilitation" means rehabilitation in which the costs of rehabilitation equal or exceed 20 percent of the value of the structure after rehabilitation.

However, the requirements of this paragraph may be modified by the city and county, as necessary to meet the conditions of approval of the United States Department of Housing and Urban Development.

(c) Notwithstanding any other provision of law, bonds issued pursuant to this section shall be legal investments for all trust funds, insurance companies, savings and loan associations, investment companies and banks, both savings and commercial, and shall be legal investments for executors, administrators, trustees and all other fiduciaries. Such bonds shall be legal investments for state school funds and for any funds which may be invested in county, municipal, or school district bonds, and such bonds shall be deemed to be securities which may properly and legally be deposited with, and received by, any state or municipal officer or by any 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.

(d) It is not the intent of the Legislature in enacting this section to change the provisions of this part, but only to continue programs relating to the goals of this part and to prevent loss of commitments for Urban Development Action Grants.

SEC. 7. Section 52056 is added to the Health and Safety Code, to read:

52056. (a) Any county having a population exceeding 4,000,000 persons may, in addition to any other power conferred by this part, issue revenue bonds as provided in Chapter 4 (commencing with Section 52030) of this part for the purpose of financing the construction or development of multifamily rental housing and for the provision of capital improvements in connection with and determined necessary to such multifamily housing.

(b) Not less than 30 percent of the total number of rental housing units financed or for which financing has been extended or committed pursuant to this section shall be for occupancy on a priority basis by lower income households, as defined in Section 50079.5, at least two-thirds of which shall be for occupancy on a priority basis by very low income households, as defined in Section 50105.

(c) As a condition of financing pursuant to this section, the county shall ensure that units reserved for occupancy by lower income households remain available at an affordable rent for such occupancy on a priority basis for a period of not less than 30 years from the date the loan is made. For the purposes of this section, affordable rent shall be rent in an amount not exceeding 25 percent of the gross income of the occupant person or family, nor less than 15 percent of such gross income.

(d) A long-term loan which is made by a county for the permanent financing of a multifamily rental housing development in the county making such long-term loan shall be secured by a mortgage and insured by the Federal Housing Administration,

California Housing Finance Agency, a private mortgage insurer, or an insurance fund maintaining actuarially sufficient reserves established by the county.

(e) Any bonds issued under this section shall be issued on or before December 31, 1981.

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 the necessity are:

It was and is the intent of the Legislature that revenue bond financing authorized by Chapter 8 (commencing with Section 33750) of Part 1 of Division 24 of the Health and Safety Code be used to finance commercial structures that are neighborhood service centers, and are located on a parcel or parcels that could otherwise not be developed. However, such authorization, which utilizes a public subsidy in the form of an income tax exemption for interest earned by the bonds, has recently been utilized to finance development which is exclusively commercial and does not meet these criteria. Also, in order to make the financing of residential construction more economical through better bond ratings and lower bond interest rates, it is necessary and desirable that redevelopment agencies be authorized to accomplish residential construction financing programs indirectly through loans to qualified mortgage lenders. In order to maintain the public purposes of these provisions and to promote the public welfare, it is necessary that this act go into immediate effect. Additionally, it is necessary that this act go into immediate effect to enable the conduct of urgently needed housing programs in the City of Oakland, the City and County of San Francisco, and the County of Los Angeles.

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## CHAPTER 1332

An act to add Section 593e to the Penal Code, relating to television transmissions, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1980 Filed with  
Secretary of State September 30, 1980 ]

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

SECTION 1. Section 593e is added to the Penal Code, to read: 593e. Every person who for profit knowingly and willfully manufactures, distributes, or sells any device or plan or kit for a device, or printed circuit containing circuitry for interception or decoding with the purpose or intention of facilitating interception or decoding of any over-the-air transmission by a subscription television service made pursuant to authority granted by the Federal

Communications Commission which is not authorized by the subscription television service is guilty of a misdemeanor punishable by a fine not exceeding two thousand five hundred dollars (\$2,500) or by imprisonment in the county jail not exceeding 90 days, or both.

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. 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 need for legislative protection from piracy and other unauthorized reception of subscription television transmissions has become increasingly urgent to protect the subscription television industry, especially in light of the inadequate protection against illicit activities provided by existing law, and it is therefore necessary that this act go into effect immediately.

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## CHAPTER 1333

An act to amend Sections 51215, 51216, 51217, and 56345 of, and to add Sections 51217.5, 51217.7, 51219, 51219.5, 51412, and 56157.5 to, the Education Code, relating to schools, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1980. Filed with  
Secretary of State September 30, 1980 ]

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

SECTION 1. Section 51215 of the Education Code is amended to read:

51215. (a) The governing board of each school district maintaining a junior or senior high school shall, by June 1, 1978, adopt standards of proficiency in basic skills for pupils attending school within its school district.

(b) The governing board of each school district maintaining grade 6 or 8, or the equivalent, shall, by June 1, 1979, adopt standards of proficiency in basic skills for pupils attending such grades.

(c) Such standards shall include, but need not be limited to, reading comprehension, writing, and computation skills, in the

English language, necessary to success in school and life experiences, and shall be such as will enable individual achievement to be ascertained and evaluated.

(d) Differential standards and assessment procedures shall be adopted pursuant to this subdivision.

(1) Differential standards and assessment procedures shall be adopted for pupils who:

(A) Are enrolled in special education programs pursuant to Part 30 (commencing with Section 56000); or for whom individualized education programs have been developed, and for whom the regular instructional program has been modified, as necessary, under the supervision of a person who holds an appropriate credential in special education and;

(B) Have diagnosed learning handicaps or disabilities such that the individualized education program team determines they have not demonstrated evidence of the ability to attain the district's regular proficiency standards with appropriate educational services and support.

(2) If the team determines that such pupils have not demonstrated evidence of the ability to attain the district's regular proficiency standards with appropriate educational services and support, the team shall develop differential proficiency standards, or modify general differential standards adopted by the governing board, appropriate to the needs and potential of the pupil.

(3) Any such differential standards shall be included in the individualized education program developed for the pupil pursuant to Part 30 (commencing with Section 56000).

(4) The determination and the development of differential proficiency standards shall be part of the process of developing, reviewing, and revising a pupil's individualized education program.

(5) In the case where one or more differential standards are developed for a pupil enrolled in special education, such standards may be maintained throughout the pupil's school experience, irrespective of whether the pupil continues to be enrolled in special education.

(6) Nothing in this subdivision shall be construed to require differential proficiency standards for a pupil who a team determines can attain the district's regular proficiency standards with appropriate educational services and support.

(7) The provisions of this subdivision shall apply prospectively and retroactively to pupils enrolled in the 9th grade, or the equivalent thereof, during the 1977-78 school year.

(8) Differential standards and assessment procedures adopted pursuant to this subdivision shall permit the pupil for whom they are adopted to attain the standards within a reasonable amount of time but not after the state is no longer required by state or federal law to provide an education to the pupil.

(9) It is the intent of the Legislature that the attainment of a standard of proficiency by a pupil shall also reflect the attainment of

a reasonable level of competence. The Legislature, therefore, recognizes that there may be some pupils who cannot meet regular or differential standards of proficiency, and others who will need to remain in school beyond grade 12 or the equivalent in order to meet a standard which reflects their maximum potential.

(10) For students with diagnosed learning disabilities, as well as for students participating in the regular school program, proficiency assessments may be part of the classroom experience, and teaching materials may be used as assessment materials.

(e) Governing boards maintaining elementary or junior high schools located within a school district maintaining a high school shall adopt standards of proficiency in basic skills which are articulated with those standards adopted by the school district maintaining the high school.

(f) Designated employees of all school districts located within a high school district and one or more designees of the high school district shall meet prior to June 1, 1979, to plan for articulation of elementary and high school proficiency standards, and as necessary thereafter to review the effectiveness of such articulation procedures.

(g) Standards of proficiency shall be adopted by the governing board with the active involvement of parents broadly reflective of the socioeconomic composition of the district, administrators, teachers, counselors, and, with respect to standards in secondary schools, pupils.

SEC. 3. Section 51216 of the Education Code is amended to read:

51216. (a) Beginning in the 1978-79 school year, the governing board of each district maintaining a junior or senior high school, and beginning in the 1979-80 school year, the governing board of each district maintaining an elementary school, shall take appropriate steps to ensure that individual pupil progress towards proficiency in basic skills is assessed in the English language during the regular instructional program at least once during the 4th through 6th grade experience, once during the 7th through 9th grade experience and twice during the 10th through 11th grade experience, provided that any pupil who demonstrates proficiency up to prescribed levels for graduation from high school need not be reassessed. Nothing in this section shall preclude any district from conducting an assessment of any pupil in English and in the native language of such pupil.

(b) Proficiency assessments shall be used to determine whether pupils need additional assistance in basic skills, and if so, the appropriate content and mode of any such assistance.

It is the intent of the Legislature that pupil assessments measure the progress of each pupil in mastering basic skills rather than the pupil's performance relative to his or her classmates.

It is the intent of the Legislature that the governing board of each school district make every effort possible to periodically screen assessment instruments for racial, cultural, and sexual bias.

(c) (1) In the case of any pupil who does not demonstrate

sufficient progress toward mastery of basic skills so that he or she will be able to meet prescribed standards upon exit from the 6th, 8th, or 12th grade, whichever is appropriate, the principal shall arrange a conference among the parent or guardian of the pupil and a certificated employee familiar with the pupil's progress to discuss the results of the individual pupil assessment and recommended actions to further the pupil's progress.

(2) It is the intent of the Legislature that the conference to discuss the results of the individual assessment be conducted on an individual basis among the parent or guardian of the pupil, the certificated employee familiar with the pupil's progress, and the pupil, as the case may be, and not on a group basis in which all parents or guardians of such pupils are assembled.

(3) If such conferences are conducted on a group basis, the pupil or the parent or guardian may request, and shall be granted, a conference on an individual basis without having to attend the group conference.

(4) The secondary school pupil shall attend the conference. The elementary school pupil shall attend the conference unless the principal's designee and the parent or guardian agree that such presence would not be in the pupil's best interest.

(5) The pupil and the parent or guardian shall be requested in writing to attend the conference. Such notice shall be written in the primary language of the parent or guardian, whenever practicable. If the conference is to be conducted on a group basis, the notice shall specify the right of the pupil or the parent or guardian to request and be granted a conference on an individual basis without having to attend the group conference.

(6) Absent a response from the parent or guardian the school shall make a reasonable effort to contact him or her by other means to communicate directly the information contained in the written request.

(7) At the conference, the instructional program which shall be provided to assist the pupil to master basic skills shall be described. If the parent or guardian does not attend the conference, such information shall be communicated to the parent or guardian by other means within 10 days of the date of the conference.

(d) Instruction in basic skills shall be provided for any pupil who does not demonstrate sufficient progress toward mastery of basic skills and shall continue until the pupil has been given numerous opportunities to achieve mastery. Such instruction may be provided in summer school programs.

SEC. 4. Section 51217 of the Education Code is amended to read:

51217. (a) No pupil who was enrolled in the 9th grade, or the equivalent thereof, during the 1977-78 school year, or subsequent thereto, shall receive a diploma of graduation from high school if he or she has not met the standards of proficiency in basic skills prescribed by the secondary school district governing board.

(b) The State Board of Education shall, by February 1, 1978,

prepare and distribute to each school district maintaining a junior or senior high school, and by February 1, 1979, prepare and distribute to each district maintaining an elementary school, a framework for assessing pupil proficiency in reading comprehension, writing, and computation skills. Such framework shall include a range of assessment items in each skill area. The assessment framework shall be provided solely to assist each school district in the development of its own pupil assessments as required by Section 51216.

(c) Nothing in this section shall be construed to authorize or permit the State Board of Education to adopt statewide minimum proficiency standards for high school graduation.

SEC. 5. Section 51217.5 is added to the Education Code, to read:

51217.5. After June 1, 1981, no person enrolled in an adult school program, an evening high school program, or any other program or class for adults, the completion of which is evidenced by a diploma of graduation from high school, shall receive such diploma if he or she has not met the standards of proficiency in basic skills adopted by the school district governing board maintaining such program or class.

SEC. 6. Section 51217.7 is added to the Education Code, to read:

51217.7. (a) Pupils enrolled in juvenile court schools pursuant to Article 2.5 (commencing with Section 48645) of Chapter 4 of Part 27 or Article 4 (commencing with Section 56150) of Chapter 2 of Part 30 shall be subject to the standards of proficiency in basic skills of the school district in which they were last enrolled prior to enrollment in juvenile court schools.

(b) The county board of education maintaining the juvenile court school in which pupils are presently enrolled and the governing board of the school district in which such pupils were last enrolled prior to enrollment in the juvenile court schools shall jointly ensure, to the extent possible, that such pupils are assessed at the intervals required by subdivision (a) of Section 51216.

SEC. 7. Section 51219 is added to the Education Code, to read:

51219. (a) By January 15, 1981, the Department of Education shall collect from a representative sample of school districts the information specified in paragraphs (1) to (4), inclusive, of subdivision (c) for pupils enrolled in the 12th grade who were enrolled in the 9th grade, or the equivalent thereof, during the 1977-78 school year. Such information shall be collected only for such pupils who were assessed by December 1, 1980. By February 15, 1981, the Department of Education shall report such information to the Legislature.

(b) Commencing January 15, 1982, the Department of Education shall collect annually from a representative sample of school districts the information specified in paragraphs (1) to (3), inclusive, of subdivision (c) for pupils enrolled in the 6th and 9th grades or the equivalents thereof, and the information specified in paragraphs (1) to (4), inclusive of subdivision (c) for pupils enrolled in the 11th and 12th grades or the equivalent thereof. Commencing February 15,

1982, the Department of Education shall report annually such information to the Legislature.

(c) The Department of Education shall collect from a representative sample of school districts the following information relating to proficiency assessment performance.

(1) The number of pupils enrolled in grade 6, 9, 11, or 12, as appropriate, and the number of pupils who have been assessed.

(2) The number of pupils in grade 6, 9, 11, or 12, as appropriate, who have satisfied the district's proficiency standards in all three or more basic skills, as specified in subdivision (c) of Section 51215 and those who have not. Such information shall be both cumulated and categorized according to race and ethnicity and whether the pupils are limited English speaking or non English speaking, as specified in Section 52163.

(3) The number of pupils in grade 6, 9, 11, or 12, as appropriate, who have satisfied the district's proficiency standards in each of the three or more basic skills specified in subdivision (c) of Section 51215 and those who have not. Such information shall be both cumulated and categorized according to race and ethnicity and whether the pupils are limited English speaking or non English speaking, as specified in Section 52163.

(4) The number of pupils in grade 11 or 12, as appropriate, who regardless of whether they have satisfied the district's proficiency standards in each of the three or more basic skills specified in subdivision (c) of Section 51215 would not be eligible to receive a diploma of graduation from high school.

SEC. 7.5. Section 51219.5 is added to the Education Code, to read:

51219.5. (a) The Superintendent of Public Instruction shall, by October 1, 1980, convene an ad hoc panel of educators and lay people to recommend methods to improve regular and remedial instruction in basic skills.

(b) The Superintendent of Public Instruction shall, by December 1, 1980, make available to all school districts information on such methods and shall give priority to those districts in which a substantial number of pupils have not demonstrated sufficient progress toward mastery of basic skills.

SEC. 8. Section 51412 is added to the Education Code, to read:

51412. No diploma, certificate or other document, except transcripts and letters of recommendation, shall be conferred on a pupil as evidence of completion of a prescribed course of study or training, or of satisfactory attendance, unless such pupil has met the standards of proficiency in basic skills prescribed by the governing board of the high school district, or equivalent thereof, pursuant to Article 2.5 (commencing with Section 51215) of Chapter 2.

SEC. 9. Section 56157.5 is added to the Education Code, to read:

56157.5. The county office maintaining special education programs for children temporarily placed in a licensed children's institution, and the governing board of the school in which the pupil was last enrolled, shall jointly ensure, to the extent possible, that

children receiving special education are assessed at the intervals required by subdivision (a) of Section 51216.

SEC. 10. Section 56345 of the Education Code, as added by Chapter 797 of the Statutes of 1980, is amended to read:

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 related 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 and preparation for remunerative employment, additional vocational training, or additional career development opportunities, as appropriate.

(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.

(d) A pupil's individualized education program shall, pursuant to Section 51215, also include the determination of the individualized education program team as to whether differential proficiency

standards shall be developed for the pupil, and if so, shall include such standards.

SEC. 11. The State Board of Control, when reviewing claims for mandated proficiency counseling under Section 51216 of the Education Code, shall reduce the amount allowed to reflect the reduction in personnel necessary for proficiency counseling as provided in the amendments to Section 51216 under Section 3 of this act.

SEC. 12. Commencing with the 1980-81 fiscal year, the sum of one million dollars (\$1,000,000) is hereby annually appropriated to the Controller for allocation and disbursement to local agencies and school districts for purposes of this act as follows:

(a) The sum of six hundred thousand dollars (\$600,000) from the General Fund for costs incurred in conducting the conferences pursuant to Section 51216 of the Education Code.

(b) The sum of four hundred thousand dollars (\$400,000) from the General Fund pursuant to Section 2231 of the Revenue and Taxation Code for other costs mandated by the state and incurred pursuant to 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 to allow the provisions of this act to be operative for as much as possible of the 1980-81 school year and to allow the simultaneous implementation of this act and Assembly Bill No. 2196, it is necessary that this act take effect immediately.

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## CHAPTER 1334

An act to add Sections 42238.6 and 51205 to, the Education Code, relating to school finance.

[Approved by Governor September 30, 1980 Filed with  
Secretary of State September 30, 1980.]

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

SECTION 1. Section 42238.6 is added to the Education Code, to read:

42238.6. In determining each school district's revenue limit pursuant to Section 42238, the county superintendent of schools shall include in the summer school computation prescribed by paragraph (1) of subdivision (g) of Section 42238, in addition to that otherwise provided by law, the sum of the following:

(a) The number of units of summer school average daily attendance of 11th graders who will be unable to graduate with their class unless they repeat a class which is required for graduation

during summer school and which they will not be able to take in the next regular school year.

(b) The number of units of intersession average daily attendance of pupils enrolled in a year-round school pursuant to Part 22 (commencing with Section 37000) who meet the criteria specified in subdivision (a), or paragraph (1) of subdivision (g) of Section 42238, or Section 42238.5.

The adjustment prescribed by this section shall apply to summer school attendance which occurs in 1981 and thereafter.

SEC. 2. Section 51205 is added to the Education Code, to read:

51205. Pupils enrolled in a year-round school pursuant to Part 22 (commencing with Section 37000) shall have access, as necessary, to an equal educational opportunity as provided during summer school to pupils enrolled in regular school year programs.

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. It is the intent of the Legislature that any additional state apportionments resulting from the enactment of this act be taken into account in computing any reimbursement available under Chapter 3.

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## CHAPTER 1335

An act to amend Sections 11010, 11013.1, 11013.2, and 11013.4 of, to add Section 11018.6 to, and to repeal Sections 11018.4 and 11018.11 of, the Business and Professions Code, relating to subdivided land.

[Approved by Governor September 30, 1980 Filed with  
Secretary of State September 30, 1980.]

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

SECTION 1. Section 11010 of the Business and Professions Code is amended to read:

11010. Except as provided in this chapter, any person who intends to offer subdivided lands for sale or lease shall notify the Department of Real Estate in writing of such intention.

The notice of intention shall contain the following information:

- (a) The name and address of the owner.
- (b) The name and address of the subdivider.
- (c) The legal description and area of lands.
- (d) A true statement of the condition of the title to the land, particularly including all encumbrances thereon.
- (e) A true statement of the terms and conditions on which it is

intended to dispose of the land, together with copies of any contracts intended to be used.

(f) A true statement of the provisions, if any, that have been made for public utilities in the proposed subdivision, including water, electricity, gas, telephone, and sewerage facilities.

(g) A true statement of the use or uses for which the proposed subdivision will be offered.

(h) A true statement of the provisions, if any, limiting the use or occupancy of the parcels in the subdivision.

(i) A true statement of the amount of indebtedness which is a lien upon the subdivision or any part thereof, and which was incurred to pay for the construction of any onsite or offsite improvement, or any community or recreational facility.

(j) A true statement or reasonable estimate, if applicable, of the amount of any indebtedness which has been or is proposed to be incurred by an existing or proposed special district, entity, taxing area or assessment district, within the boundaries of which, the subdivision, or any part thereof, is located, and which is to pay for the construction or installation of any improvement or to furnish community or recreational facilities to such subdivision, and which amounts are to be obtained by ad valorem tax or assessment, or by a special assessment or tax upon the subdivision, or any part thereof.

(k) The location of all existing airports, and of all proposed airports shown on the general plan of any city or county, located within two statute miles of the subdivision.

(l) A true statement, if applicable, referencing any soils or geologic report or soils and geologic reports that have been prepared specifically for the subdivision.

(m) A true statement of whether or not fill is used, or is proposed to be used in the subdivision and a statement giving the name and the location of the public agency where information concerning soil conditions in the subdivision is available.

(n) Such other information as the owner, his or her agent, or subdivider, may desire to present.

SEC. 2. Section 11013.1 of the Business and Professions Code is amended to read:

11013.1. It shall be unlawful, except as provided in Section 11013.2, for the owner, subdivider, or agent to sell or lease lots or parcels within a subdivision that is subject to a blanket encumbrance unless there exists in such blanket encumbrance or other supplementary agreement a provision, hereinafter referred to as a release clause, which by its terms shall unconditionally provide that the purchaser or lessee of a lot or parcel can obtain legal title or other interest contracted for, free and clear of such blanket encumbrance, upon compliance with the terms and conditions of the purchase or lease.

SEC. 3. Section 11013.2 of the Business and Professions Code is amended to read:

11013.2. Should there not exist in the blanket encumbrance or

supplementary agreement a release clause as set forth in Section 11013.1, then it shall be unlawful for the owner, subdivider, or agent to sell or lease lots or parcels within such subdivision unless one of the following conditions is complied with:

(a) The entire sum of money paid or advanced by the purchaser or lessee of any such lot or parcel, or such portion thereof as the commissioner shall determine is sufficient to protect the interest of the purchaser or lessee, shall be deposited into an escrow depository acceptable to the commissioner until either (1) a proper release is obtained from such blanket encumbrance; or (2) either the owner, subdivider, or agent or the purchaser or lessee may default under their contract of sale or lease and there is a determination as to the disposition of such moneys; or (3) the owner, subdivider, or agent orders the return of such moneys to such purchaser or lessee.

(b) The title to the subdivision is to be held in trust under an agreement of trust acceptable to the commissioner until a proper release from such blanket encumbrance is obtained.

(c) A bond to the State of California is furnished to the commissioner for the benefit and protection of purchasers or lessees of such lots or parcels, in such amount and subject to such terms as may be approved by the commissioner, which shall provide for the return of the moneys paid or advanced by any purchaser or lessee, for or on account of the purchase or lease of any such lot or parcel if a proper release from such blanket encumbrance is not obtained; provided, however, that if it should be determined that such purchaser or lessee, by reason of default or otherwise, is not entitled to the return of such moneys, or any portion thereof, then such bond shall be exonerated to the extent of the amount of such moneys to which such purchaser or lessee is not entitled.

(d) There is conformance to such other alternative requirement or method which the commissioner may deem acceptable to carry into effect the intent and provisions of this part.

SEC. 4. Section 11013.4 of the Business and Professions Code is amended to read:

11013.4. If a subdivision is not subject to a blanket encumbrance, as defined in Section 11013, it shall be unlawful for the owner, subdivider, or agent to sell or lease lots or parcels within a subdivision unless one of the following conditions is complied with:

(a) The entire sum of money paid or advanced by the purchaser or lessee of any such lot or parcel, or such portion thereof as the commissioner shall determine is sufficient to protect the interest of the purchaser or lessee, shall be deposited into an escrow depository acceptable to the commissioner or into a trust account acceptable to the commissioner to be held in such escrow depository or trust account until the legal title or other interest contracted for, whether it be title of record or other interest, is delivered to such purchaser or lessee or until (1) either the owner, subdivider, or agent or the purchaser or lessee may default under their contract of sale or lease and a determination is made as to the disposition of such moneys; or

(2) the owner, subdivider, or agent orders the return of such moneys to such purchaser or lessee.

(b) A bond to the State of California is furnished to the commissioner for the benefit and protection of purchasers or lessees of such lots or parcels, in such amount and subject to such terms as may be approved by the commissioner, which shall provide for the return of the moneys paid or advanced by any purchaser or lessee, for or on account of the purchase or lease of any such lot or parcel in the event that the owner, subdivider, or agent does not, within the time specified in his contract to sell or lease, or any extension thereof, deliver the legal title or other interest contracted for, whether it be title of record, or other interest, to such purchaser or lessee for any reason other than an uncured default of such purchaser or lessee.

(c) An association, approved by the commissioner, files with the commissioner a certificate in which it certifies that the owner, subdivider, or agent is a member of such association and that there is on file with the commissioner a bond, of the kind specified in subdivision (b) of this section, which has been approved by the commissioner as to amount, terms and coverage, and which is for the benefit and protection of all purchasers and lessees of subdivided lots or parcels to be sold or leased by members of such association (all which the commissioner may, at his option, verify or require to be verified). The commissioner may also, from time to time, require an increase in the amount of such bond as a condition to the continued applicability of the provisions of this subdivision to such association and its members or permit a decrease in the amount thereof.

(d) Proof, satisfactory to the commissioner, is furnished: (1) that such bonds or deposits, as provided or contemplated to be filed or made pursuant to the provisions of Section 66493 and Chapter 5 (commencing with Section 66100) of Division 2 of Title 7 of the Government Code, have been filed or made in such amounts as the commissioner shall approve, or that the filing or making of such bonds or deposits are unnecessary; and (2) that a lien and completion bond or bonds, approved by the commissioner as to amount, terms and coverage and including within its scope all onsite construction work to be undertaken on such lots or parcels, has been written and issued by a corporate surety company authorized to do such business in this state; provided, however, that this subdivision shall apply only to an owner, subdivider, or agent who proposes to sell or lease such lots or parcels with improvements thereon in the nature of residential structures.

(e) The entire sums of moneys paid or advanced by the purchasers or lessees of such lots or parcels, or such portion thereof as the commissioner shall determine is sufficient to protect the interest of the purchaser or lessee, shall be deposited into an escrow depository or other agency, acceptable to the commissioner, to be held, in whole or in part, by such escrow depository or other agency as provided by subdivision (a) of this section, or, at the election of the owner, subdivider, or agent, to be disbursed, in whole or in part,

for the construction of residential or other structures to be built on such lots or parcels within said subdivision, or such unit or units thereof as the commissioner shall determine, in such manner and pursuant to such instructions as the commissioner shall approve; provided, however, that the provisions of this subdivision shall apply only to an owner, subdivider, or agent who proposes to sell or lease such lots or parcels with improvements thereon in the nature of residential structures.

(f) There is conformance to such other alternative requirement or method which the commissioner may deem acceptable to carry into effect the intent and provisions of this part.

SEC. 5. Section 11018.4 of the Business and Professions Code is repealed.

SEC. 6. Section 11018.6 of the Business and Professions Code is repealed.

SEC. 7. Section 11018.11 is added to the Business and Professions Code, to read:

11018.11. The commissioner shall not be a responsible agency for purposes of the California Environmental Quality Act (Division 13 (commencing with Section 21000) of the Public Resources Code). Receipt by the commissioner of a copy of an environmental impact report or negative declaration prepared pursuant to the California Environmental Quality Act shall be conclusive evidence of compliance with such act for purposes of issuing a subdivision public report.

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.

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## CHAPTER 1336

An act to amend Sections 10249.3, 10249.4, 11004.5, 11010, 11011, 11011.05, 11011.1, 11011.12, and 11018.2 of, and to add Sections 11010.3, 11010.4, and 11010.6 to, the Business and Professions Code, relating to subdivided land.

[Approved by Governor September 30, 1980. Filed with  
Secretary of State September 30, 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 one thousand two hundred dollars (\$1,200) per subdivision, plus six dollars (\$6) for each lot, unit, apartment, undivided interest, time-share estate, or time-share use offered for sale or lease.

**SEC. 2.** Section 10249.4 of the Business and Professions Code is amended to read:

10249.4. The fee for filing an application for a renewal permit required by this article shall not exceed three hundred dollars (\$300).

**SEC. 3.** 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 of this code, containing five or more lots.

(b) Any community apartment project, as defined by Section 11004 of this code, containing five or more apartments.

(c) Any condominium project containing five 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 five 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) above 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) above.

SEC. 4. Section 11010 of the Business and Professions Code is amended to read:

11010. Except as provided in this chapter, any person who intends to offer subdivided lands for sale or lease shall notify the Department of Real Estate in writing of such intention.

The notice of intention shall contain the following information:

- (a) The name and address of the owner.
- (b) The name and address of the subdivider.
- (c) The legal description and area of lands.
- (d) A true statement of the condition of the title to the land, particularly including all encumbrances thereon.
- (e) A true statement of the terms and conditions on which it is intended to dispose of the land, together with copies of any contracts intended to be used.
- (f) A true statement of the provisions, if any, that have been made for public utilities in the proposed subdivision, including water, electricity, gas, telephone, and sewerage facilities.
- (g) A true statement of the use or uses for which the proposed subdivision will be offered.
- (h) A true statement of the provisions, if any, limiting the use or occupancy of the parcels in the subdivision.
- (i) A true statement of the amount of indebtedness which is a lien upon the subdivision or any part thereof, and which was incurred to pay for the construction of any onsite or offsite improvement, or any community or recreational facility.
- (j) A true statement or reasonable estimate, if applicable, of the amount of any indebtedness which has been or is proposed to be incurred by an existing or proposed special district, entity, taxing area or assessment district, within the boundaries of which, the subdivision, or any part thereof, is located, and which is to pay for the construction or installation of any improvement or to furnish community or recreational facilities to such subdivision, and which amounts are to be obtained by ad valorem tax or assessment, or by a special assessment or tax upon the subdivision, or any part thereof.
- (k) The location of all existing airports, and of all proposed airports shown on the general plan of any city or county, located within two statute miles of the subdivision.
- (l) A true statement, if applicable, referencing any soils or geologic report or soils and geologic reports that have been prepared specifically for the subdivision.
- (m) A true statement of whether or not fill is used, or is proposed to be used in the subdivision and a statement giving the name and the location of the public agency where information concerning soil conditions in the subdivision is available.
- (n) Such other information as the owner, his or her agent, or subdivider, may desire to present.

SEC. 5. Section 11010.3 is added to the Business and Professions Code, to read:

11010.3. The notice of intention specified in Section 11010 shall

not be required for a proposed sale or lease of expressly zoned industrial subdivisions which are limited in use to industrial purposes and expressly zoned commercial subdivisions which are limited in use to commercial purposes.

SEC. 6. Section 11010.4 is added to the Business and Professions Code, to read:

11010.4. The notice of intention specified in Section 11010 is not required for a proposed offering of subdivided land which satisfies all of the following criteria:

(a) The owner, subdivider, or agent has complied with Sections 11013.1, 11013.2, and 11013.4, if applicable.

(b) The subdivided land is not a subdivision as defined in Section 11000.1, 11000.5, or 11004.5.

(c) Each lot, parcel or unit of the subdivision is located entirely within the boundaries of a city.

(d) Each lot, parcel or unit of the subdivision will be sold or offered for sale improved with a completed residential structure and with all other improvements completed that are necessary to occupancy or with financial arrangements determined to be adequate by the city to ensure completion of such improvements.

SEC. 7. Section 11010.6 is added to the Business and Professions Code, to read:

11010.6. The notice of intention specified in Section 11010 shall not be required for subdivided land or lands which are offered or proposed to be offered for sale, lease, or financing by a state agency, including the University of California, a local agency, or other public agency.

SEC. 8. Section 11011 of the Business and Professions Code is amended to read:

11011. After receiving the notice of intention, the commissioner may require such additional information concerning the project as he deems necessary, for which purpose he may prepare a questionnaire for the owner, his agent or subdivider, to answer. A filing fee not to exceed three hundred dollars (\$300), plus ten dollars (\$10) for each lot in the subdivision, shall accompany the answered questionnaire.

SEC. 9. Section 11011.05 of the Business and Professions Code is amended to read:

11011.05. The fee for filing an application for a preliminary, amended or renewal subdivision report shall not exceed three hundred dollars (\$300).

SEC. 10. 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 of this code, or any interest therein, a filing fee not to exceed one thousand two hundred dollars (\$1,200) per subdivision, plus six dollars (\$6) 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 of this code.

SEC. 11. Section 11011.12 of the Business and Professions Code is amended to read:

11011.12. The fee for filing an application for a preliminary, amended or renewal subdivision report in connection with any subdivision described in Section 11004.5 of this code, or any interest therein, shall not exceed three hundred dollars (\$300).

SEC. 12. Section 11018.2 of the Business and Professions Code is amended to read:

11018.2. No person shall sell or lease, or offer for sale or lease in this state any lots or parcels in a subdivision without first obtaining a public report from the Real Estate Commissioner. This section shall not apply to subdivisions for which a notice of intention is not required under the provisions of this chapter.

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 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.

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## CHAPTER 1337

An act to amend Section 2246 of, and to add Sections 2219, 2219.5, and 2231.5 to, and to add Article 3.6 (commencing with Section 2256) to Chapter 3 of Part 4 of Division 1 of, the Revenue and Taxation Code, relating to state-mandated local programs.

[Approved by Governor September 30, 1980. Filed with  
Secretary of State September 30, 1980.]

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

SECTION 1. Section 2219 is added to the Revenue and Taxation Code, to read:

2219. "Cost savings authorized by the state" means any decreased costs which a local agency realizes as a result of any law enacted or executive order issued after January 1, 1981, which permits or requires the discontinuance of or a reduction in the level of service of an existing program which was mandated before January 1, 1973.

SEC. 2. Section 2219.5 is added to the Revenue and Taxation Code, to read:

2219.5. "Cost savings authorized by the state" means any decreased costs which a school district realizes as a result of any law enacted or executive order issued after January 1, 1981, which permits or requires the discontinuance of or a reduction in the level of service of an existing program which was mandated by a law enacted before January 1, 1973, or an executive order issued before January 1, 1978.

SEC. 3. Section 2231.5 is added to the Revenue and Taxation Code, to read:

2231.5. (a) The Legislature hereby finds and declares that the increasing revenue constraints on state and local government and the increasing costs of financing state-mandated local programs make evaluation of the cumulative effects of state-mandated local programs imperative. Accordingly, it is the intent of the Legislature to establish a method for regularly reviewing the costs of state-mandated local programs, by requiring the sunset of new mandates and evaluating the benefit of previously enacted mandates.

(b) No provision of law enacted by the Legislature after January 1, 1981, which created "costs mandated by the state" for which reimbursement is made pursuant to Section 2231, 2234, or 2253 shall be effective for more than six years after the operative date of such law, and each bill containing such provisions of law shall also include language repealing those provisions no more than six years after the operative date of those provisions. The Legislature, prior to the end of the six-year period, may enact a bill continuing such provisions of law and reimbursement. Such law may be continued for successive periods, but in no case shall it be continued for more than one six-year period at a time. This subdivision shall not apply to "costs mandated by the state" for which reimbursement is made pursuant to Section 2231, 2234, or 2253 if such reimbursement is to fund benefits for the State Teachers Retirement System or the Public Employees Retirement System.

(c) Prior to the end of each calendar year, commencing with 1981, the Department of Finance shall review all statutes which created "costs mandated by the state" for which reimbursement was made pursuant to Section 2231, 2234, or 2253 enacted in the fifth preceding year, except that the department's initial review shall also include all such statutes enacted in 1973, 1974, and 1975. The department shall report to the Legislature the amount of such reimbursements to local agencies and school districts for each fiscal year. This report may be incorporated in the department's annual Chaptered Bill Report on Local Mandates, required by Section 2246. The department may recommend that the Legislature continue or modify any provision of law reviewed pursuant to this subsection.

(d) The Legislative Analyst may review and report to the Legislature with regard to any statute or executive order which creates a state-mandated local program. The Legislative Analyst may recommend that the Legislature continue, eliminate, or modify any

provision of law reviewed pursuant to this subsection.

SEC. 4. Section 2246 of the Revenue and Taxation Code is amended to read:

2246. Before the end of each calendar year the Department of Finance shall review all statutes enacted during such calendar year which (1) contain provisions making inoperative Section 2229, 2230, 2231, or 2234 or (2) have resulted in costs or revenue losses mandated by the state which were not identified when the statute was enacted. Such review shall identify the costs or revenue losses involved in complying with the provisions of such statutes. The Department of Finance shall also review all statutes enacted in such calendar year which may result in cost savings authorized by the state. The Department of Finance shall submit to the Legislature an annual report of the review required by this section, together with such recommendations as it may deem appropriate.

SEC. 5. Article 3.6 (commencing with Section 2256) is added to Chapter 3 of Part 4 of Division 1 of the Revenue and Taxation Code, to read:

Article 3.6. Claims for Offsetting Local Savings Against State Reimbursements

2256. The State Board of Control shall hear and decide upon a claim by any state agency, that a local agency or school district has realized a cost savings authorized by the state as defined in Section 2219 or 2219.5.

Notwithstanding any other provision of law, this article shall provide the sole and exclusive procedure by which the State Board of Control shall hear and decide upon a claim that a local agency or school district has realized a cost savings authorized by the state.

For the purpose of hearing and deciding upon such claims, the membership of the State Board of Control shall consist of those members specified in Section 2251.

No claim shall be made to the State Board of Control pursuant to this article unless the cost savings identified by such claim exceeds two thousand five hundred dollars (\$2,500) per fiscal year.

Any state agency with the authority to audit the records of any local agency or school district may do so for the purpose of establishing that there were cost savings authorized by the state in excess of two thousand five hundred dollars (\$2,500) for which a claim may be filed with the State Board of Control.

2256.1. The State Board of Control shall adopt procedures for receiving claims pursuant to this article and for providing a hearing on such claims. Such procedures shall fall within the scope of subdivision (b) of Section 13920 of the Government Code, except that such procedures shall be adopted by a majority vote of the board membership prescribed by Section 2251. The hearing procedure shall provide for presentation of evidence by any state agency, by the affected local agency or school district, and by any other interested

parties. A vote of a majority of the board members shall be required to sustain a claim submitted pursuant to this article.

2256.2. Within 10 days after receipt of the first claim based upon each chaptered bill or executive order, the State Board of Control shall set a date for public hearing on such claim within a reasonable time. Such claims shall be submitted in a form prescribed by the board. After a hearing in which any state agency, the affected local agency or school district, and any other interested parties may participate, the board, if it determines a cost savings was authorized by the state, shall adopt parameters and guidelines for identifying all cost savings realized by local agencies or school districts relating to such bill or executive order. These parameters and guidelines shall provide for an offset between the cost savings authorized by the state and the reasonable costs of preparing the reports required by Section 2256.4. A local agency, school district, and the state may file a claim or request with the board to amend, modify, or supplement such parameters and guidelines. The board may, after due public notice and hearing, amend, modify, or supplement such parameters and guidelines.

2256.3. At least twice each calendar year, the State Board of Control shall submit to the Legislature a report on claims it has approved pursuant to the provisions of this article. Such report may be included in the report required by Section 2255. Language requiring the Controller to deduct 50 percent of the cost savings realized by each local agency or school district from the reimbursements for mandated costs made pursuant to Section 2231 shall, at the time of its introduction, be included in the local government claims bill required by Section 2255.

2256.4. (a) Each local agency or school district which submits a claim pursuant to the provisions of Section 2231 shall submit a report on the amount of cost savings authorized by the state which it realized in the preceding fiscal year. Such report shall be submitted by the deadline for filing claims specified in paragraph (2) of subdivision (d) of Section 2231.

(b) Subsequent to the enactment of a local government claims bill requiring the Controller to deduct cost savings realized by local agencies or school districts pursuant to a specific law or executive order, the Controller shall distribute the parameters and guidelines for reporting cost savings to all local agencies and school districts.

(c) The Controller shall reduce the payments to each local agency or school district for "costs mandated by the state made pursuant to Section 2231" by 50 percent of the amount of "cost savings authorized by the state" realized by such local agency or school district in the preceding fiscal year. The first fiscal year for which the Controller shall reduce such payments shall be the fiscal year during which the local government claims bill requiring such deduction is enacted. The Controller shall not reduce any payment unless the cost savings authorized by the state and realized by a local agency or school district exceeds two hundred dollars (\$200).

(d) No claim for mandated costs shall be paid by the Controller unless the local agency or school district which submitted the claim has also submitted all savings reports required by this section or a certification that such local agency or school district did not realize any savings which exceed two hundred dollars (\$200).

2256.5. A school district, local agency, or the state may commence a proceeding in accordance with the provisions of Section 1094.5 of the Code of Civil Procedure to set aside a decision of the State Board of Control on the grounds that the board's decision is not supported by substantial evidence. The court may order the board to hold another hearing regarding such claim and may direct the board on what basis the claim is to receive a rehearing.

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## CHAPTER 1338

An act to amend Sections 1774 and 1774.5 of, and to repeal and add Section 1774.7 of, the Government Code, relating to Governor's appointments.

[Approved by Governor September 30, 1980. Filed with  
Secretary of State September 30, 1980 ]

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

SECTION 1. Section 1774 of the Government Code is amended to read:

1774. (a) When an office, the appointment to which is vested in the Governor and Senate, either becomes vacant or the term of the incumbent thereof expires, the Governor may appoint a person to the office.

(b) The Governor shall inform the Senate or, if the Senate is in recess or has adjourned, the Secretary of the Senate, as to the date when a person appointed to an office, which is subject to confirmation by the Senate, is to first begin performing the duties of the office.

(c) If the Senate either refuses to confirm, or fails to confirm within 365 days after the day the person first began performing the duties of the office, the following shall apply:

(1) If the Senate refuses to confirm, the person may continue to serve in that office until 60 days have elapsed since the refusal to confirm or until 365 days have elapsed since the person first began performing the duties of the office, whichever occurs first, and the office for which the appointment was made shall be deemed to be vacant as of the first day immediately following the end of the applicable period.

(2) If the Senate fails to confirm within the 365-day period, the person may not continue to serve in that office, and the office for which the appointment was made shall be deemed to be vacant as

of the first day immediately following the end of the 365-day period.

SEC. 2. Section 1774.5 of the Government Code is amended to read:

1774.5. Notwithstanding the provisions of Section 1302, no person holding an office which is deemed to be vacant pursuant to Section 1774 may, after the time the office has been deemed to be vacant pursuant to those provisions, continue to discharge the duties of the office, and no warrant shall be drawn by the Controller for the payment of any salary or expenses of that person attributable to the discharge of the duties of the office after that time. In addition, the Governor shall not reappoint the person to the same office for a period of 12 months after the time the office has been deemed to be vacant.

SEC. 3. Section 1774.7 of the Government Code is repealed.

SEC. 4. Section 1774.7 is added to the Government Code, to read:

1774.7. The provisions of Sections 1774 and 1774.5 shall apply to any person appointed prior to, or on or after, January 1, 1981, except that with respect to any person appointed prior to January 1, 1981, the 365-day period specified in Section 1774 shall not commence to run until January 1, 1981.

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## CHAPTER 1339

An act to amend Sections 10106, 44253.5, 52015, 52161, 52162, 52163, 52164, 52164.1, 52164.2, 52164.3, 52164.4, 52164.5, 52165, 52166, 52167, 52168, 52171.6, 52172, 52173, 52175, 52176, 52177, 52178, 54024, and 56001 of, to add Sections 52163.5, 52163.6, and 52164.6 to, to repeal and add Sections 52170, 52171, 52174, and 52178.5 to, and to repeal Sections 52047 and 52169.1 of, the Education Code, relating to bilingual education.

[Approved by Governor September 30, 1980. Filed with  
Secretary of State September 30, 1980.]

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

SECTION 1. This act shall be known and may be cited as the Bilingual Education Improvement and Reform Act of 1980.

SEC. 2. Section 10106 of the Education Code is amended to read:

10106. The Commission for Teacher Preparation and Licensing shall serve as a clearinghouse for bilingual-crosscultural teaching personnel. The commission shall compile, continually update, and maintain a directory of bilingual-crosscultural teachers available to teach in bilingual education programs. The directory shall be sent to all school districts on or before March 15 annually. The commission shall, upon request, assist school districts in the recruitment of such teachers.

SEC. 3. Section 44253.5 of the Education Code is amended to

read:

44253.5. The Commission for Teacher Preparation and Licensing shall grant certificates of bilingual-crosscultural competence. The purpose of these certificates is to increase the number of persons qualified to provide appropriate bilingual-crosscultural instruction to children whose native language is other than English and who are non- or limited-English speaking. The Commission for Teacher Preparation and Licensing shall also develop an assessment program which will provide a method by which persons holding valid teaching credentials may demonstrate their competence as bilingual-crosscultural teachers. These certificates shall certify, as a minimum, the following:

(a) That the person is competent in both the oral and written skills of a language other than English;

(b) That the person has both the knowledge and understanding of the cultural and historical heritage of the students whose native language is other than English;

(c) That the person successfully can teach the basic teaching authorization in English and in a language other than English, and that person has been formally trained and is competent in the fields of language acquisition and development, structure of modern English, and basic principles of linguistics. The holder of this certificate is authorized to teach students whose native language is other than English.

The Commission for Teacher Preparation and Licensing shall require institutions of higher education to use the same rigorous assessment procedures as the assessor agencies prior to being eligible to recommend individuals for the certificate of bilingual-crosscultural competence.

In order to ensure reliability, validity, and objectivity of assessment, the Commission for Teacher Preparation and Licensing shall develop by July 1, 1981, uniform standards and procedures for assessing bilingual-crosscultural competence as described in subdivisions (a), (b), and (c), and, to the maximum extent feasible, shall adopt standardized assessment instruments for Spanish and Cantonese.

SEC. 3.5. Section 52015 of the Education Code is amended to read:

52015. Each plan shall include:

(a) Curricula, instructional strategies, and materials responsive to the individual educational needs and learning styles of each pupil which enable all pupils to:

(1) Make continuous progress and learn at a rate appropriate to their abilities.

(2) Master basic skills in language development and reading, writing, and mathematics pursuant to Sections 51215 and 51216.

(3) Develop knowledge and skills in other aspects of the curriculum, such as arts and humanities; physical, natural, and social sciences; multicultural education; physical, emotional, and mental

health; consumer economics; and career education.

(4) Pursue educational interests and develop esteem for self and others, personal and social responsibility, critical thinking, and independent judgment.

Consideration shall be given to the use of community resources, such as museums, libraries, and communications media, to achieve instructional improvement objectives.

(b) Instructional and auxiliary services to meet the special needs of pupils of limited English proficiency consistent with Article 3 (commencing with Section 52160) of Chapter 7 of Part 28, including instruction in a language such pupils understand; educationally disadvantaged pupils; and pupils with exceptional abilities or needs.

(c) A staff development program for teachers, other school personnel, paraprofessionals, and volunteers as provided in Section 52019.

(d) Improvement of the classroom and school environments, including improvement of relationships between and among pupils, school personnel, parents, and the community, and reduction of the incidence among pupils of violence and vandalism.

(e) Other objectives as established by the council.

(f) The proposed expenditure of allowances provided pursuant to Article 4 (commencing with Section 52045) of this chapter and other state or local funds available to support the school improvement program.

(g) Ongoing evaluation and modification of the school improvement plan by the council based on information regarding:

(1) The degree to which the school is meeting its improvement objectives as assessed by parents, teachers, other school personnel, and pupils.

(2) Student achievement.

(3) Improved school environment as measured by indicators such as (A) the incidence among pupils of absenteeism, suspension, expulsion, and dropouts and the incidence and costs of school violence, vandalism, and theft of school or private property while participating in school activities, (B) pupil attitudes toward school, self, and others, (C) incidence of absenteeism, resignations and requests for transfers among teachers and other school personnel, and (D) satisfaction of teachers, pupils, parents, administrators, and other school personnel with school services and decisionmaking processes.

(4) The degree to which fiscal expenditures meet the criteria of the school improvement plan.

SEC. 4. Section 52047 of the Education Code is repealed.

SEC. 5. Section 52161 of the Education Code is amended to read:

52161. The Legislature finds that there are more than 288,000 school age children who are limited English proficient and who do not have the English language skills necessary to benefit from instruction only in English at a level substantially equivalent to pupils whose primary language is English. Their lack of English language

communication skills presents an obstacle to such pupils' right to an equal educational opportunity which can be removed by instruction and training in the pupils' primary languages while such pupils are learning English. The Legislature recognizes that the school dropout rate is excessive among pupils of limited English proficiency. This represents a tremendous loss in human resources and in potential personal income and tax revenues. Furthermore, high rates of joblessness among these dropouts contribute to the unemployment burden of the state.

The Legislature recognizes that a critical need exists for teaching and administrative personnel qualified in the bilingual and crosscultural skills necessary to the instruction of the limited-English-proficient population in the state's school districts. Therefore, the Legislature directs school districts to provide for in-service programs to qualify existing and future personnel in the bilingual and crosscultural skills necessary to serve the pupils of limited English proficiency of this state. Furthermore, the Legislature intends that the public institutions of higher education establish programs to qualify teachers and administrators in the bilingual and crosscultural skills necessary to serve these pupils.

The Legislature finds and declares that the primary goal of all programs under this article is, as effectively and efficiently as possible, to develop in each child fluency in English. The programs shall also provide positive reinforcement of the self-image of participating pupils, promote crosscultural understanding, and provide equal opportunity for academic achievement, including, when necessary, academic instruction through the primary language.

It is the purpose of this article to require California school districts to offer bilingual learning opportunities to each pupil of limited English proficiency enrolled in the public schools, and to provide adequate supplemental financial support to achieve such purpose. Insofar as the individual pupil is concerned, participation in bilingual programs is voluntary on the part of the parent or guardian.

SEC. 6. Section 52162 of the Education Code is amended to read: 52162. The State Board of Education shall adopt such rules and regulations as are necessary for the effective administration of this article.

SEC. 7. Section 52163 of the Education Code is amended to read: 52163. Unless the context otherwise requires, the definitions set forth in this section shall govern the construction of this article.

(a) "Basic bilingual education" is a system of instruction which builds upon the language skills of the pupil and which consists of, but is not limited to, all of the following:

(1) A structured English language development component with daily instruction leading to the acquisition of English language proficiency, including English reading and writing skills.

(2) A structured primary language component with daily basic skills instruction in the primary language for the purpose of

sustaining achievement in basic subject areas until the transfer to English is made.

As the pupil develops English language skills, the amount of instruction offered through English shall increase.

(b) "Bilingual-bicultural education" is a system of instruction which uses two languages, one of which is English, as a means of instruction. It is a means of instruction which builds upon and expands the existing language skills of each participating pupil, which will enable the pupil to achieve competency in both languages.

This instruction shall include all of the following:

(1) Daily instruction in English language development which shall include:

(A) Listening and speaking skills.

(B) Reading and writing skills; formal instruction in reading and writing of English shall be introduced when appropriate criteria are met.

(2) Language development in the pupil's primary language, including oral and literacy skills.

(3) Reading in the pupil's primary language.

(4) Selected subjects taught in the pupil's primary language.

(5) Development of an understanding of the history and culture of California and the United States, as well as an understanding of customs and values of the cultures associated with the languages being taught.

(c) (1) "Experimental bilingual programs" are:

(A) Innovative programs which are consistent with the provisions of this article, including, but not limited to, the requirements for bilingual teaching personnel pursuant to Section 52165, and the requirements for English language and primary language development pursuant to this section. Such programs may include new management approaches, greater emphasis on team teaching, or other appropriate improvements which expand the learning opportunities of pupils of limited English proficiency. Unless waivers of code sections are required, the board need not approve such projects. A description of each such innovative program shall be included with the consolidated application for program funding and an annual evaluation of such programs shall be included in the multiple-funded program evaluation required pursuant to Section 33403.

(B) Planned variation programs for the purpose of comparing and improving language development programs for pupils of limited English proficiency. The primary focus shall be on appropriate instruction for pupils of limited English proficiency whose English skills are superior to their skills in their primary language. Such program shall be authorized by the board in up to 150 classrooms in districts which are representative of the state both geographically and by size. Not more than 15 such classrooms shall be approved in any one district. Such programs shall not result in segregation. For

districts proposing a planned variation program, the staffing requirements of Section 52165 may be partially or totally waived by the board provided that the district has an inadequate number of certified bilingual teachers, that certified bilingual teachers are not replaced, that present level of effort is not reduced, and that the proposed language development program is appropriate. For each participating classroom there shall be another similar classroom in the district which has fully implemented and is in compliance with the other provisions of this article.

(2) Initial guidelines, criteria, and procedures for experimental programs shall be developed by the department not later than March 1, 1981. Proposals for planned variation programs shall include, but need not be limited to:

(A) A clear statement of the purposes, goals, and objectives for planned variation programs and projected outcomes.

(B) A delineated management, staffing, and instructional plan.

(C) Pupil identification, diagnosis, and assessment procedures.

(D) Evidence of qualified bilingual and other instructional staff with demonstrated competence in language development, bicultural or multicultural knowledge of participating pupils, and instructional methodologies.

(E) Documented parent and community participation and support.

(F) Use of state and federal funding, where applicable.

(G) Evaluation component which controls for instructional treatments, instructional engaged time, staffing, pupil language characteristics, achievement, attendance, and related data.

(3) The department shall include in its annual report to the Legislature submitted pursuant to Sections 33405 and 52171.6 the number and nature of experimental bilingual and planned variation programs and progress of participating pupils.

(4) Nothing contained in this subdivision shall be construed to permit the operation of experimental bilingual and planned variation programs contrary to the purposes or intent of this article and other state or federal statutes and regulations promulgated for and on behalf of pupils of limited English proficiency. The primary goal of all such programs shall be to teach the pupil English.

(d) "Secondary level language learning program" is a program which provides (1) a prescriptive English language program that systematically develops a pupil's listening and speaking skills, knowledge of linguistic and grammatical structure leading to proficiency in reading and writing English, (2) primary language instructional support to sustain academic achievement in content subject areas required for high school graduation. The prescriptive English language program shall be based on the diagnosis of a pupil's language skills pursuant to Sections 52164 and 52164.1 and shall be conducted as an integral instructional program of English curriculum for not less than one full period a day for the purpose of providing pupils with minimum English language competencies

pursuant to subdivision (e). The primary goal of such programs shall be to teach pupils English.

(e) "Secondary level individual learning program" is an individualized systematic program of instruction which meets the needs of limited-English-proficient pupils and builds upon their language skills in order to develop proficiency in English. This program shall be offered in a manner consistent with the United States Supreme Court decision in *Lau vs. Nichols* (414 U.S. 563), the Equal Education Opportunities Act of 1974 (20 U.S.C. Sec. 1701 et seq.) and federal regulations promulgated pursuant to such court decisions and federal statutes. The primary goal of all such programs shall be to teach the pupil English.

(f) "Elementary level individual learning program" is any program of instruction for a pupil of limited English proficiency in which any one of the three program options described in subdivision (a), (b), or (c) is individualized to meet the needs of the pupil of limited English proficiency and is offered in a manner consistent with the requirements of this article. Such instruction shall be offered in a manner consistent with the United States Supreme Court decision in *Lau v. Nichols* (414 U.S. 563), the Equal Educational Opportunities Act of 1974 (20 U.S.C. Sec. 1701 et seq.), and federal regulations promulgated pursuant to such court decisions and federal statutes. The primary goal of all such programs shall be to teach the pupil English.

(g) "Primary language" is a language other than English which is the language the pupil first learned or the language which is spoken in the pupil's home.

(h) "Bilingual-crosscultural teacher" means a person who (1) holds a valid, regular California teaching credential and (2) holds either a bilingual-crosscultural certificate of proficiency or other credential in bilingual education authorized by the Commission for Teacher Preparation and Licensing or a bilingual-crosscultural specialist credential. Such a person shall be fluent in the primary language and familiar with the cultural heritage of limited-English-proficiency pupils in the bilingual classes he or she conducts. Such a person shall have a professional demonstrated working knowledge of the methodologies which are necessary to educate effectively those pupils.

(i) "Bilingual-crosscultural teacher aide" means an aide fluent in both English and the primary language of the pupil or pupils of limited English proficiency in a bilingual-bicultural program. Such an aide shall be familiar with the cultural heritage of pupils of limited English proficiency in the bilingual classes to which he or she is assigned.

(j) "Board" means the State Board of Education.

(k) "Superintendent" means the Superintendent of Public Instruction.

(l) "Basic skills" means language arts, including, but not limited to, reading and writing, and mathematics.

(m) "Pupils of limited English proficiency" are pupils who do not have the clearly developed English language skills of comprehension, speaking, reading, and writing necessary to receive instruction only in English at a level substantially equivalent to pupils of the same age or grade whose primary language is English. The determination of which pupils are pupils of limited English proficiency shall be made in accordance with the procedures specified in Sections 52164 and 52164.1. Pupils who have no proficiency in their primary language are not included within this definition.

(n) "Pupils of fluent English proficiency" are pupils whose English proficiency is comparable to that of the majority of pupils, of the same age or grade, whose primary language is English.

(o) "Department" means the Department of Education.

SEC. 8. Section 52163.5 is added to the Education Code, to read:

52163.5. Each of the program options defined in subdivision (a), (b), (c), (d), (e), or (f) of Section 52163 shall include structured activities which promote the pupil's positive self-image and crosscultural understanding.

The Legislature recognizes that language development is a continuum and that pupils in the same classroom may have varying levels of English and primary language skills. The individualized instruction for each pupil, pursuant to all of the program options, shall be based on a continuing evaluation of the pupil's progress by the classroom teacher, and by others, as appropriate. An English development component is required for all participating pupils. Pupils with greater strength in their primary language shall receive instruction in academic subjects through the primary language as long as such instruction is needed to sustain academic achievement. As pupils develop the skills which allow them to learn more effectively in English, more of their instruction shall be through the English language. A primary language component shall be provided as specified in subdivision (a), (b), (c), (d), (e), or (f) of Section 52163, but shall be less extensive as the pupil progresses into English.

SEC. 9. Section 52163.6 is added to the Education Code, to read:

52163.6. The Legislature recognizes that for many languages there is a shortage of primary language textbooks, curriculum, teacher training programs, and bilingual personnel. The requirement for reading in the primary language may be waived by the board if the district documents the lack of available materials, personnel, and training programs. The department shall maintain a list of available curriculum materials and teacher training programs in all appropriate languages, to verify the waiver requests. The waiver is renewable yearly. Each waiver request shall be signed by the chairperson of the district bilingual committee. The waiver does not eliminate the requirement for primary oral language development.

SEC. 10. Section 52164 of the Education Code is amended to read:  
52164. Each school district shall ascertain not later than the first

day of March of each year, under regulations prescribed by the State Board of Education, the total number of pupils of limited English proficiency within the district, and shall classify them according to their primary language, age, and grade level. This count shall be known as the "census of pupils of limited English proficiency" and shall consist of a determination of the primary language of each pupil enrolled in the school district and an assessment of the language skills of all pupils whose primary language is other than English.

The census shall be taken by individual, actual count, and not by estimates or samplings. All pupils of limited English proficiency, including migrant and special education pupils, shall be counted. Special language assessment instruments, designated by the superintendent and in compliance with the requirements of subdivision (j) of Section 56001, may be used for special education pupils. The results of this census shall be reported to the Department of Education not later than the 30th day of April of each year. The previous census shall be updated to include new enrollees and to eliminate pupils who are no longer pupils of limited English proficiency and pupils who no longer attend school in the district, and shall be reported pursuant to Section 52164.1. Census data gathered in one school year shall be used to plan the number of bilingual classrooms to be established in the following school year.

SEC. 11. Section 52164.1 of the Education Code is amended to read:

52164.1. The superintendent, with the approval of the State Board of Education, shall prescribe census-taking methods, applicable to all school districts in the state, which shall include, but need not be limited to, the following:

(a) A determination of the primary language of each pupil enrolled in the school district. The primary language of new pupils shall be determined as they enroll. Once determined, the primary language need not be redetermined unless the parent or guardian claims there is an error. Home language determinations are required only once, unless the results are disputed by a parent or guardian.

(b) An assessment of the language skills of all pupils whose primary language is other than English. All the skills listed in subdivision (m) of Section 52163 shall be assessed, except that reading and writing skills need not be assessed for pupils in kindergarten and grades 1 and 2. For those pupils who, on the basis of oral language proficiency alone, are clearly limited English proficient, assessment of reading and writing skills shall be necessary only to the extent required by subdivision (c). This assessment, which shall be made as pupils enroll in the district, shall determine whether such pupils are fluent in English or are of limited English proficiency.

(c) For those pupils identified as being of limited English proficiency, a further assessment shall be made to determine the pupil's primary language proficiency, including speaking, comprehension, reading, and writing, to the extent assessment

instruments are available. Parallel forms of the instruments used to determine English proficiency shall be used, if available. The results of the parallel assessment shall determine the extent and sequence in which English and the primary language will be used in the instruction of basic skills.

A diagnostic assessment in the language designated for basic skills instruction measuring speaking, comprehension, reading, and writing, shall be administered for instructional use at the district level. Such diagnostic assessment shall be updated as necessary to provide a curriculum meeting the individual needs of each pupil of limited English proficiency.

If the assessment conducted pursuant to this subdivision indicates that the pupil has no proficiency in the primary language, further assessment of the pupil's primary language skills including consultation with the pupil's parents or guardians, the classroom teacher, the pupil, or others who are familiar with the pupil's language ability in various environments shall be conducted. If this detailed assessment indicates that the pupil has no proficiency in his or her primary language, then the pupil is not entitled to the protection of this article.

The diagnostic assessment process shall be completed within 90 days after the date of the pupil's initial enrollment and shall be performed in accordance with rules and regulations adopted by the board.

The parent or guardian of the pupil shall be notified of the results of the assessment. The Department of Education shall conduct an equivalency study of all language proficiency tests designated for the identification of pupils of limited English proficiency to insure uniformity of language classifications and to insure the reliability and validity of such tests. Tests, materials, and procedures to determine proficiency shall be selected to meet psychometric standards and administered so as not to be racially, culturally, or sexually discriminatory.

The Department of Education shall annually evaluate the adequacy of and designate the instruments to be used by school districts, and such instruments shall be available by March 15 of each year.

The assessments shall be conducted by persons who speak and understand English and the primary language of the pupils assessed, who are adequately trained and prepared to evaluate cultural and ethnic factors, and who shall follow procedures formulated by the superintendent to determine which pupils are pupils of limited English proficiency, as defined in subdivision (m) of Section 52163. A school district may require that the assessment be conducted by persons who hold a valid, regular California teaching credential and who meet the other qualifications specified in this paragraph. The superintendent may waive the requirement that the assessment be conducted by persons who can speak and understand the pupil's primary language where the primary language is spoken by a small

number of pupils and the district certifies that it is unable to comply. This certification shall be accompanied by a statement from the district superintendent that the chairperson of the district advisory committee on bilingual education has been consulted and was unable to assist in the effort to locate appropriate individuals to administer the assessment.

Any district may elect to follow federal census requirements provided that the language skills described in subdivision (m) of Section 52163 are assessed, and provided that such procedures are consistent with Section 52164, the district shall be exempt from the state census procedures described in subdivisions (a) and (b).

SEC. 12. Section 52164.2 of the Education Code is amended to read:

52164.2. The Department of Education shall review the results of the census each year. Where the information provided by a school district appears to be inaccurate or where parents, teachers, or counselors file a formal written complaint that the census is inaccurate, the department shall audit the district's census. Where the department concludes that the census has been incorrectly taken, or the results appear to be inaccurate, the department shall require another census to be taken and the corrected information to be provided.

SEC. 13. Section 52164.3 of the Education Code is amended to read:

52164.3. (a) Each school district shall reassess pupils whose primary language is other than English, whether they are designated as limited English proficient, or fluent English proficient, when a parent or guardian, teacher, or school site administrator claims that there is a reasonable doubt about the accuracy of the pupil's designation.

(b) In all cases of reassessment, the parent or guardian of the pupil shall be notified of the result. This notice shall be given orally when school personnel have reason to think that a written notice will not be understood.

SEC. 14. Section 52164.4 of the Education Code is amended to read:

52164.4. If a previously untested pupil enrolling in a school for the first time speaks a language other than English in the home, such pupil shall be enrolled as a pupil of limited English proficiency in a bilingual program pursuant to subdivision (a), (b), (c), (e), or (f) of Section 52163 at least until that child has been assessed pursuant to Section 52164.

SEC. 15. Section 52164.5 of the Education Code is amended to read:

52164.5. Pertinent information from the assessment of language skills for each pupil whose primary language is other than English shall be retained by the school district as long as the pupil is enrolled in the district. Each school district shall report annually to the Department of Education, and the department shall report to the

State Board of Education, the number of pupils (1) whose primary language is other than English; (2) who are of limited English proficiency; (3) whose primary language is other than English who are enrolled in classes defined in subdivision (a), (b), (c), (d), (e) or (f) of Section 52163; (4) the number of such pupils who have become bilingual and literate in English and in their primary language, as appropriate; and (5) the number of such pupils who have met the language reclassification criteria for exit criteria pursuant to Section 52164.6.

SEC. 16. Section 52164.6 is added to the Education Code, to read:

52164.6. Reclassification criteria shall be established by each school district in which pupils of limited English proficiency are enrolled. The criteria shall determine when pupils of limited English proficiency have developed the English language skills necessary to succeed in an English-only classroom. The reclassification process shall, at a minimum, utilize multiple criteria, including, but not limited to, all of the following:

(a) Teacher evaluation, including a review of the pupil's curriculum mastery.

(b) Objective assessment of language proficiency and reading and writing skills.

(c) Parental opinion and consultation.

(d) An empirically established range of performance in basic skills, based on nonminority English-proficient pupils of the same grade and age, which demonstrates that the pupil is sufficiently proficient in English to succeed in an English-only classroom.

The board shall, no later than April 1, 1981, adopt regulations setting forth standards for language reclassification criteria to be adopted by school districts. The board's regulations shall, at a minimum, prescribe a reclassification process which shall utilize multiple criteria as required by this section.

The superintendent shall, by May 1, 1981, prepare and distribute to each school district in which pupils of limited English proficiency are enrolled, background material and guidelines for language reclassification criteria to be adopted by school districts.

Each school district shall, in following the board's regulations, no later than September 1, 1981, establish criteria for determining when pupils of limited English proficiency enrolled in programs defined in Section 52163 have developed the English language skills of comprehension, speaking, reading, and writing necessary to succeed in an English-only instructional setting.

SEC. 17. Section 52165 of the Education Code is amended to read:

52165. Each pupil of limited English proficiency enrolled in the California public school system in kindergarten through grade 12 shall receive instruction in a language understandable to the pupil which recognizes the pupil's primary language and teaches the pupil English.

(a) In kindergarten through grade 6;

(1) Whenever the language census indicates that any school of a

school district has 10 or more pupils of limited English proficiency with the same primary language in the same grade level or 10 or more pupils of limited English proficiency with the same primary language, in the same age group, in a multigrade or ungraded instructional environment, the school district shall offer instruction pursuant to subdivision (a), (b), or (c) of Section 52163 for such pupils at the school. Whenever there are pupils of limited English proficiency with different primary languages who do not otherwise trigger the program requirements of subdivision (a), (b), or (c) of Section 52163 or of this subdivision, a language development specialist defined in subdivision (b) may be used.

(2) Commencing September 1, 1981, and to the extent state or federal categorical funds are available, the following services are required for pupils of limited English proficiency in concentrations of fewer than 10 per grade level: When there are fewer than 10 pupils of limited English proficiency in the same grade, but at least 20 such pupils in the school with the same primary language, the school district shall provide at least one certified bilingual-crosscultural teacher or teachers on waiver as defined in Section 52178 or 52178.5 and an individualized instruction program as defined in subdivision (f) of Section 52163 for such pupils at the school. If the number of pupils of limited English proficiency in the school exceeds 45, the district shall provide two such teachers. These teachers may be used as resource teachers, team teachers or to provide such other services to pupils of limited English proficiency as the district deems appropriate. These teachers shall be different teachers than those required pursuant to paragraph (1).

(b) The Legislature recognizes that in the past equal educational opportunities have not been fully available to secondary pupils of limited English proficiency. It is the intent of the Legislature to encourage school districts to offer a language learning program pursuant to subdivision (d) of Section 52163. Certified bilingual-crosscultural teachers or, if no such teachers are available, language development specialists assisted by a bilingual aide shall be qualified to provide instruction for such programs. Language development specialists shall be formally trained and competent in the field of English language learning, including second language acquisition and development, structure of modern English, and basic principles of linguistics, and shall meet the culture and methodology competencies established by subdivisions (b) and (c) of Section 44253.5. The Commission for Teacher Preparation and Licensing shall provide for the assessment of language competencies specified herein and shall modify existing culture and methodology competency for language development specialist to insure that they meet the crosscultural and instructional methodologies for pupils being served by such teachers. A teachers of english to speakers of other languages certificate from a commission approved teacher training institution of higher education which meets the criteria established by the commission pursuant to Section 44253.5 shall be

accepted in lieu of the methodology requirement.

(c) In kindergarten and grades 1 through 12 pupils of limited English proficiency who are not enrolled in a program described in subdivision (a), (b), (c), or (d) of Section 52163, shall be individually evaluated and shall receive educational services defined in subdivision (e) or (f), as appropriate, of Section 52163. Such services shall be provided in consultation with the pupil and the parent, parents, or guardian of the pupil.

(d) As a part of its consolidated application for categorical program funds, each district receiving such funds shall include a specific plan indicating the ways in which the individual learning plans will meet the needs of pupils of limited English proficiency. The plan shall describe all of the following: (1) Procedures used in making the individual evaluation. (2) The pupils' levels of English and primary language proficiency and levels of educational performance. (3) Instructional objectives and scope of educational services to be provided. (4) Periodic evaluation procedures, using objective criteria, to determine whether the instructional objectives are being met.

SEC. 18. Section 52166 of the Education Code is amended to read:

52166. All teachers and aides providing instruction in programs established pursuant to subdivision (a), (b), or, unless waived by the board, (c) of Section 52163, shall meet the criteria of subdivision (h) or (i) of Section 52163. In the event a school operates an individualized program described in subdivision (e) or (f) of Section 52163, such a district which receives categorical aid funds to meet the needs of pupils of limited English proficiency shall certify to the board that sufficient teachers and aides meeting the criteria of subdivision (h) or (i) of Section 52163, as appropriate, are available to the school to ensure that all pupils of limited English proficiency have instructional opportunities in both English and their primary language to meet the intent of this chapter. Other instructional personnel who are not bilingual-crosscultural as defined in subdivisions (h) and (i) of Section 52163 may provide instructional and educational services to pupils enrolled in programs established pursuant to subdivision (a), (b), or (c) of Section 52163 if the principal teachers and aides providing instruction in such programs meet the criteria established in subdivisions (h), unless waived by the board pursuant to subparagraph (B) of paragraph (1) of subdivision (c) of Section 52163, and (i) of Section 52163.

In the development of teacher evaluation procedures pursuant to Article 11 (commencing with Section 44660) of Chapter 1 of Part 25, the governing board of each school district may ensure that a teacher meeting the criteria of subdivision (h) of Section 52163 is evaluated on the basis of his or her classroom performance by an onsite administrator upon the advice of another person meeting the criteria of subdivision (h) of Section 52163.

SEC. 19. Section 52167 of the Education Code is amended to read:

52167. In classes established pursuant to subdivision (a), (b), or

(c) of Section 52165, not more than two-thirds nor less than one-third of the pupils shall be pupils of limited English proficiency. The remaining proportion of pupils in such class shall be pupils of fluent English proficiency. However, where there is documented evidence that these proportions cannot be met, the classroom proportions shall, at a minimum, reflect the proportion of the language proficiency classification for the particular grade level in the school and shall not result in segregation. Fluent-English-proficient pupils shall receive basic skills instruction in English and, to the extent possible, be achieving at the district norm.

In no event shall the primary purpose of the program be to teach a foreign language to English-speaking pupils.

The board shall adopt any necessary regulations governing this section within 90 days after January 1, 1981.

SEC. 20. Section 52168 of the Education Code is amended to read:

52168. (a) The superintendent shall ensure that funds appropriated for purposes of this article supplement and do not supplant categorical funds allocated from other local or state sources in meeting the needs of pupils of limited English proficiency.

Categorical aid funds used for the purposes of Section 52165 shall not exceed, on a per pupil basis, the maximum allowance established pursuant to subdivision (b) of Section 54004.5 and regulations implementing that section. Categorical funds used for the purposes of Section 52165 shall include all state and local categorical aid funds which are wholly or partially allocated on the basis of the educational needs of limited-English-proficient pupils.

(b) School districts may claim funds appropriated for purposes of this article for expenditures in, but not limited to, the following categories:

(1) The employment of bilingual-crosscultural teachers and aides; however, funds are available for employment expenditures only to the extent such personnel are employed in providing bilingual services to eligible pupils. School districts applying for these funds shall submit an assurance that personnel hired for this program only supplement and do not supplant district personnel whose positions are funded by the district general fund.

(2) The purchase and development of special bilingual-bicultural teaching materials.

(3) The costs of special in-service training to develop bilingual-crosscultural instructional skills with preference given to teachers and teacher aides employed as part of the bilingual-bicultural program.

(4) Reasonable expenses (which may include transportation, child care, translation services, meals, and training) of parent advisory groups on bilingual-bicultural education, at the school and school district level, in the course of their duties as members of the parent advisory groups. The State Board of Education shall adopt rules and regulations defining reasonable expenses.

(5) Health and auxiliary services to the extent that they meet the

direct needs of eligible pupils.

(6) Reasonable district administrative expenses including, but not limited to, costs incurred for the census of pupils of limited English proficiency pursuant to subdivision (a) of Section 52164.1, assessments pursuant to subdivisions (b) and (c) of Section 52164.1, and parent consultation pursuant to subdivision (a) of Section 52173 allowed pursuant to regulations of the board.

(c) Nothing contained in this section shall be interpreted to authorize school districts to reduce per pupil expenditures from local, state, or federal sources for the education of pupils of limited English proficiency.

SEC. 21. Section 52169.1 of the Education Code is repealed.

SEC. 22. Section 52170 of the Education Code is repealed.

SEC. 23. Section 52170 is added to the Education Code, to read: 52170. (a) Each school which has enrolled one or more pupils of limited English proficiency shall prepare a plan to meet the needs of pupils of limited English proficiency in attendance in the school.

(1) Only those schools with 10 or more pupils with the same primary language in a grade level or 20 or more such pupils in the school and which receive consolidated application funding shall submit such plans to the superintendent.

(2) Schools with less than 10 pupils of limited English proficiency receiving consolidated application funding as well as schools with 10 or more pupils of limited English proficiency not receiving such funding shall develop and retain their plan to meet such pupils' needs. Such plan shall be available to the superintendent and the public upon request.

(b) Schools required to submit plans shall prepare an application on forms provided by the Department of Education. Such application shall meet the applicable criteria of the consolidated application regulations and shall include, in addition, all of the following components:

(1) Teacher and aide preservice training which will identify and improve knowledge levels of each teacher and aide in teaching methodology, bilingual-crosscultural philosophy, and education.

(2) An in-service training program for teachers and aides that is linked with an institution of higher education, to the maximum extent feasible, which shall include the establishment of a liaison with a nearby institution of higher education and the solicitation of help from such institution in order to upgrade continually the bilingual-crosscultural education program.

(3) An assurance that all bilingual-crosscultural aides are provided the opportunity to enroll in a career ladder program leading toward a single- or multiple-subject teaching credential and a certificate of competence in bilingual-crosscultural education.

(c) The district's application to the Department of Education shall include all of the individual school applications.

SEC. 24. Section 52171 of the Education Code is repealed.

SEC. 25. Section 52171 is added to the Education Code, to read:

52171. Each district shall submit annually to the Department of Education an evaluation of pupil progress for every program which has been approved pursuant to this article in a form and manner prescribed by the superintendent. The superintendent shall submit to the Legislature by April 15, 1981, a plan for the conduct of such evaluations. This plan shall be developed in consultation with school administrators and teachers involved in the program.

SEC. 26. Section 52171.6 of the Education Code is amended to read:

52171.6. (a) The superintendent shall report annually to the Legislature on bilingual education programs as part of the multiple-funded program evaluation required pursuant to Section 33403 of the Education Code. The Superintendent of Public Instruction shall coordinate the design of school district and state evaluations to minimize the data collection and reporting requirements at the school and district levels. Pupil performance data for bilingual programs may be collected and analyzed on a sample basis with appropriate controls for pupil and instructional program characteristics.

The multiple-funded program evaluation shall include:

(1) Summary of district reports submitted pursuant to subdivision (a) of Section 52170 on the number of identified pupils of limited English proficiency, funds from all sources available for programs to meet the needs of those identified pupils, and the numbers of identified pupils who are not being provided with services pursuant to subdivision (a), (b), (c), (d), (e), or (f) of Section 52163.

(2) Information on bilingual programs conducted pursuant to Section 52165, on all of the following:

(A) Numbers of limited English proficiency and fluent-English-speaking pupils served in the program.

(B) Numbers of teachers holding bilingual credentials or certificates of competency, bilingual aides, and teachers who have waivers.

(C) Expenditures made from bilingual education funds by category of expenditure.

(D) Number of pupils reclassified and district level procedures for reclassification pursuant to Section 52164.6.

(E) A summary report of programs conducted pursuant to subparagraph (B) of paragraph (1) of subdivision (c) of Section 52163.

(3) An assessment of the educational needs of pupils of limited English proficiency and the extent to which such needs are being met from federal, state and local efforts, pursuant to paragraph (6) of subdivision (a) of Section 52177.

(4) For pupils learning a substantive amount of the curriculum through their primary language, basic skills assessment shall be conducted in the primary language only; assessment of language proficiency shall be conducted in English.

For pupils learning through both English and the primary

language, basic skills assessment shall be in English; assessment of language proficiency shall be conducted in English. Pupils participating in the individual learning plan shall be assessed as appropriate pursuant to regulations, instruction, and guidelines to be issued by the superintendent. Assessment of pupils in the primary language shall be required only to the extent that appropriate instruments are available.

(5) It is the intent of the Legislature that evaluation of programs conducted pursuant to this article shall be designed to provide the Legislature, the board, the superintendent, and program administrators at district and school levels with information necessary to assist in all of the following:

(A) Refining and improving policies, regulations, guidelines, and procedures on a continuing basis.

(B) Assessing the overall merits of local programs.

SEC. 27. Section 52172 of the Education Code is amended to read:  
52172. Teachers and teacher aides who are not bilingual-crosscultural teachers and aides, as defined by subdivisions (h) and (i) of Section 52163, shall not be permitted to teach in programs authorized pursuant to subdivision (a), (b), or, unless waived by the board, (c) of Section 52163, except as provided in Sections 52166 and 52178, or except as staffing requirements are waived by the board pursuant to subparagraph (B) of paragraph (1) of subdivision (c) of Section 52163. It is the intent of the Legislature that the provisions of Section 44955 shall apply to this section. However, in no case shall a school district dismiss a fully certificated teacher, who previously taught in the bilingual-bicultural program pursuant to a waiver granted under Section 52178, solely on the basis that such waiver has expired. Even if such person is unable to qualify for a bilingual credential or a bilingual-crosscultural certificate of competence, he or she shall retain his or her status, seniority, and rights as a probationary or permanent employee, as the case may be, for the purpose of serving as a monolingual teacher in other programs offered by the school district.

SEC. 28. Section 52173 of the Education Code is amended to read:

52173. (a) Prior to the enrollment of any pupils in any program authorized pursuant to subdivision (a), (b), (c), or (d) of Section 52163, parents or guardians of pupils of all potential participants shall be provided the opportunity for consultation about the placement of their child or ward in such a program. To achieve this purpose, the governing board of the school district in which the pupil resides shall notify by mail or in person the parent, parents, or guardian of the pupil of the fact that their child or ward will be enrolled in a program of bilingual education. The notice shall: (1) contain a simple, nontechnical description of the purposes, method, and content of the program in which their child or ward will be enrolled; (2) inform the parent, parents, or guardian that the parent, parents, or guardian have the right and are encouraged to visit such classes in which their child or ward will be enrolled and to come to the school for a

conference to explain the nature and objectives of such education; (3) further inform the parent, parents, or guardian that they have the right, if they so wish, not to have their child or ward enrolled in such an education program; (4) inform the parent, parents, or guardian that they have the opportunity to participate in the school or school district advisory committee, or both. The written notice shall be in English and in the primary language of the pupil.

(b) Any parent or guardian whose child or ward has been or will be enrolled in programs authorized pursuant to subdivision (a), (b), (c), or (d) of Section 52163 shall have the right, either at the time of the original notification of enrollment or at the close of any semester thereafter, to withdraw his or her child or ward from the program, by written notice to the principal of the school in which his or her child or ward is enrolled.

SEC. 29. Section 52174 of the Education Code is repealed.

SEC. 30. Section 52174 is added to the Education Code, to read:

52174. Nothing in this article shall preclude the participation by an individual school district in a consortium or a cooperative in order to provide support and contract services to school districts that receive funds for the purposes of this article.

SEC. 31. Section 52175 of the Education Code is amended to read:

52175. A school district governing board may allow a nonresident pupil of limited English proficiency to enroll in or attend its program authorized pursuant to subdivision (a), (b), (c), or (d) of Section 52163 subject to Chapter 5 (commencing with Section 46600) of Part 26, if the tuition of the child is paid by the school district in which the pupil resides.

SEC. 32. Section 52176 of the Education Code is amended to read:

52176. (a) Each school district with more than 50 pupils of limited English proficiency shall establish a districtwide advisory committee on bilingual education. Parents or guardians, or both, of pupils of limited English proficiency who are not employed by the district shall constitute a majority of the committee, unless the district designates for this purpose an existing districtwide advisory committee on which parents or guardians, or both, of pupils of limited English proficiency have membership in at least the same percentage as their children and wards represent of the total number of pupils in the district, provided that a subcommittee on bilingual-bicultural education on which parents or guardians, or both, of pupils of limited English proficiency constitute a majority is established. The district advisory committee and subcommittee, if applicable, shall be responsible for at least six specific tasks. These tasks shall be to advise the district governing board regarding all of the following:

(1) Establishment of a timetable for development of a district master plan for bilingual education.

(2) Districtwide needs assessment on a school-by-school basis.

(3) Establishment of district program goals and objectives in bilingual education.

(4) A plan to ensure district compliance with the provisions of Section 52178.

(5) Administration of the annual language census.

(b) Each school with more than 20 pupils of limited English proficiency shall establish a school level advisory committee on which parents or guardians, or both, of such pupils constitute membership in at least the same percentage as their children and wards represent of the total number of pupils in the school. The school may designate for this purpose an existing school level advisory committee, or subcommittee of such an advisory committee, if the advisory committee, or subcommittee where appropriate, meets the criteria stated above.

(c) Each school advisory committee maintained pursuant to this section shall be responsible for advising the principal and staff in the development of a detailed master plan for bilingual education for the individual school and submitting the plan to the governing board for consideration for inclusion in the district master plan. It shall also be responsible for assisting in the development of the school needs assessment, language census, and ways to make parents aware of the importance of regular school attendance.

The Department of Education shall develop guidelines for the selection of advisory committees established or maintained pursuant to this section by May 1, 1981.

SEC. 33. Section 52177 of the Education Code is amended to read:

52177. (a) Out of funds appropriated for such purposes, the superintendent shall administer the provisions of this article. The responsibilities of the superintendent in administering this article shall include, but are not limited to, ensuring that:

(1) Sufficient bilingual personnel are available within the Department of Education with familiarity, competency, and proficiency in bilingual-crosscultural instruction to meet the needs of this article and to administer, review, monitor, and evaluate the use of state or federal categorical aid funds allocated to local districts which have been wholly or partially allocated on the basis of the educational needs of pupils of limited English proficiency.

(2) Department of Education personnel responsible for the administration, review, monitoring, or evaluation of programs operating pursuant to this article have been sufficiently trained to carry out the intent of this article to meet the needs of the pupil of limited English proficiency.

(3) There is within the Department of Education an administrative unit responsible for bilingual-bicultural educational programs and policies through which the superintendent shall carry out his functions pursuant to this article.

(4) Districts are providing each pupil of limited English proficiency with an educational opportunity equal to that available to English-speaking pupils; that they are making appropriate use of local and state general funds to provide bilingual-crosscultural teachers and other required services; and that an annual report is

made to the Legislature regarding the extent to which this article has been implemented by school districts throughout the state. All districts in which pupils of limited English proficiency are enrolled shall be reviewed through an onsite technical assistance, monitoring, and enforcement process at least once every three years.

(5) A plan is developed by April 1, 1981, to provide for adequate monitoring of school and school district compliance with the provisions of this article.

(6) An annual evaluation of bilingual needs and programs within the state is developed for submission to the Legislature and to the Governor. The annual evaluation shall include a state assessment of the educational needs of pupils and other persons who are limited English speaking, and of the extent to which such needs are being met from federal, state and local efforts.

(b) The Department of Education shall within 90 days after June 1, 1981, prepare and implement a coordinated plan of technical assistance to school districts in curriculum materials and development, instructional methodologies, pupil identification, and basic evaluation techniques to assist school districts in providing quality bilingual learning programs to pupils of limited English proficiency.

SEC. 34. Section 52178 of the Education Code is amended to read:

52178. All principal teachers providing instruction in programs defined by subdivision (a), (b), or, unless waived by the board, (c), and insofar as teachers are available, (d) 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 bilingual specialist credential or 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 bilingual specialist credential or 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 specialist credential or 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 a bilingual specialist credential or 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 including contacting the 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. However, all teachers teaching in a bilingual classroom with a waiver approved by the board shall have at least four years to complete their bilingual certification effective from the first year the waiver was approved.

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 teacher is 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 coursework 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 assess separately 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. 35. 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 and 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 language 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. 36. Section 54024 of the Education Code is amended to read: 54024. The Superintendent of Public Instruction shall calculate available resources for each district by adding funding entitlements allowed each district from the following sources:

- (a) Base impact aid computed pursuant to Section 54028.
- (b) Section 54030.

SEC. 37. Section 56001 of the Education Code, as added by Chapter 797 of the Statutes of 1980, is amended to read:

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 pupils of limited English proficiency as defined in subdivision (m) 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.

SEC. 38. 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. 39. (a) The provisions of this act shall become operative on July 1, 1981, except as specified in subdivision (b).

(b) Sections 7, 16, 19, 24, 25, 32, 33, 34, and 35 of this act shall become operative on January 1, 1981.

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## CHAPTER 1340

An act to amend Section 7522 of the Business and Professions Code, to amend Section 8325 of the Health and Safety Code, to amend Sections 241, 243, 245, 830.1, 830.2, 830.3, 830.4, 830.5, 830.6, 831, 832.4, 12027, 12031, and 13012 of, to add Sections 830.31, 830.7, 830.8, and 830.10 to, and to repeal Sections 243.2, 243.4, 245.2, 245.4, 830.31, 830.35, 830.36, 830.5a, 830.7, 830.10, and 830.11 of, the Penal Code, to amend Sections 165, 1808.4, 2416, 22651, 22653, 22654, 22655, 22656, and 22702 of, and to repeal Sections 165.3, 165.4, 22657.5, and 22659 of, the Vehicle Code, and to amend Section 5008 of the Welfare and Institutions Code, relating to peace officers, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1980. Filed with  
Secretary of State September 30, 1980.]

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

SECTION 1. Section 7522 of the Business and Professions Code is amended to read:

7522. This chapter does not apply to:

(a) A person employed exclusively and regularly by one employer in connection with the affairs of such employer only and where there exists an employer-employee relationship, provided that such person at no time carries or uses any deadly weapon in the performance of

his or her duties. For purposes of this subdivision, "deadly weapon" is defined to include any instrument or weapon of the kind commonly known as a blackjack, slungshot, billy, sandclub, sandbag, metal knuckles, any dirk, dagger, pistol, revolver, or any other firearm, any knife having a blade longer than five inches, any razor with an unguarded blade and any metal pipe or bar used or intended to be used as a club.

(b) An officer or employee of the United States of America, or of this state or a political subdivision thereof, while such officer or employee is engaged in the performance of his official duties, including uniformed peace officers employed part time by a public agency pursuant to a written agreement between a chief of police or sheriff and the public agency, provided such part-time employment does not exceed 50 hours in any calendar month.

(c) A person engaged exclusively in the business of obtaining and furnishing information as to the financial rating of persons.

(d) A charitable philanthropic society or association duly incorporated under the laws of this state which is organized and maintained for the public good and not for private profit.

(e) Patrol special police officers appointed by the police commission of any city, county, or city and county under the express terms of its charter who also under the express terms of the charter (1) are subject to suspension or dismissal after a hearing on charges duly filed with the commission after a fair and impartial trial, (2) must be not less than 18 years of age nor more than 40 years of age, (3) must possess physical qualifications prescribed by the commission, and (4) are designated by the police commission as the owners of a certain beat or territory as may be fixed from time to time by the police commission.

(f) An attorney at law in performing his duties as such attorney at law.

(g) A licensed collection agency or an employee thereof while acting within the scope of his employment, while making an investigation incidental to the business of the agency, including an investigation of the location of a debtor or his property where the contract with an assignor creditor is for the collection of claims owed or due or asserted to be owed or due or the equivalent thereof.

(h) Admitted insurers and agents and insurance brokers licensed by the state, performing duties in connection with insurance transacted by them.

(i) The legal owner of personal property which has been sold under a conditional sales agreement or a mortgagee under the terms of a chattel mortgage.

(j) Any bank subject to the jurisdiction of the Superintendent of Banks of the State of California or the Comptroller of Currency of the United States.

(k) A person engaged solely in the business of securing information about persons or property from public records.

(l) A peace officer of this state or a political subdivision thereof

while such peace officer is employed by a private employer to engage in off-duty employment in accordance with the provisions of Section 1126 of the Government Code. However, nothing herein shall exempt such peace officer who contracts for his or her services or the services of others as a private investigator or private patrol operator.

(m) A retired peace officer of the state or political subdivision thereof when such retired peace officer is employed by a private employer in employment approved by the chief law enforcement officer of the jurisdiction where the employment takes place, provided that the retired officer is in a uniform of a public law enforcement agency, has registered with the bureau on a form approved by the director, and has met any training requirements or their equivalent as established for security personnel under Section 7514.1 or 7514.2. Such officer may not carry a loaded or concealed firearm unless he or she is exempted under the provisions of subdivision (a) of Section 12027 of the Penal Code or paragraph (1) of subdivision (b) of Section 12031 of the Penal Code or has met the requirements set forth in Section 12033 of the Penal Code. However, nothing herein shall exempt such retired peace officer who contracts for his or her services or the services of others as a private investigator or private patrol operator.

**SEC. 2.** Section 8325 of the Health and Safety Code is amended to read:

**8325.** Persons designated by a cemetery authority have the powers of arrest as provided in Section 830.7 of the Penal Code for the purpose of maintaining order, enforcing the rules and regulations of the cemetery association, the laws of the state, and the ordinances of the city or county, within the cemetery over which he has charge, and within such radius as may be necessary to protect the cemetery property.

**SEC. 2.1.** Section 241 of the Penal Code is amended to read:

**241.** An assault is punishable by fine not exceeding five hundred dollars (\$500), or by imprisonment in the county jail not exceeding six months, or by both. When it is committed against the person of a peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of this code, or a fireman, and the person committing the offense knows or reasonably should know that such victim is a peace officer or fireman engaged in the performance of his duties, and such peace officer or fireman is engaged in the performance of his duties, the offense shall be punished by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

**SEC. 2.2.** Section 243 of the Penal Code is amended to read:

**243.** A battery is punishable by fine of not exceeding one thousand dollars (\$1,000), or by imprisonment in the county jail not exceeding six months, or by both such fine and imprisonment. When it is committed against the person of a peace officer, as that term is

defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of this code, or a fireman, and the person committing the offense knows or reasonably should know that such victim is a peace officer or fireman engaged in the performance of his duties, and such peace officer or fireman is engaged in the performance of his duties, the offense shall be punished by a fine not exceeding one thousand dollars (\$1,000), or by imprisonment in the county jail not exceeding one year, or by both such fine and imprisonment.

When it is committed against a peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2, or a fireman, and the person committing the offense knows or reasonably should know that such victim is a peace officer or fireman engaged in the performance of his duties, and such peace officer or fireman is engaged in the performance of his duties, and an injury is inflicted on such peace officer or fireman, the offense shall be punished by imprisonment in the county jail for a period of not more than one year, or by a fine or not more than one thousand dollars (\$1,000), or by imprisonment in the state prison for 16 months, or two or three years. When it is committed against a person and serious bodily injury is inflicted on such person, the offense shall be punished by imprisonment in the county jail for a period of not more than one year or imprisonment in the state prison for two, three, or four years.

As used in this section, "serious bodily injury" means a serious impairment of physical condition, including, but not limited to, the following: loss of consciousness; concussion; bone fracture; protracted loss or impairment of function of any bodily member or organ; a wound requiring extensive suturing; and serious disfigurement.

As used in this section "injury" means any physical injury which requires professional medical treatment.

SEC. 3. Section 243.2 of the Penal Code is repealed.

SEC. 3.1. Section 243.4 of the Penal Code is repealed.

SEC. 3.2. Section 245 of the Penal Code is amended to read:

245. (a) Every person who commits an assault upon the person of another with a deadly weapon or instrument or by any means of force likely to produce great bodily injury is punishable by imprisonment in the state prison for two, three or four years, or in a county jail not exceeding one year, or by fine not exceeding five thousand dollars (\$5,000), or by both such fine and imprisonment. 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.

(b) 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 peace officer or fireman, and who knows or reasonably should know that such victim is a peace officer or fireman

engaged in the performance of his duties, when such peace officer or fireman is engaged in the performance of his duties shall be punished by imprisonment in the state prison for three, four, or five years.

As used in this section, "peace officer" refers to any person designated as a peace officer in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of this code.

SEC. 4. Section 245.2 of the Penal Code is repealed.

SEC. 4.5. Section 245.4 of the Penal Code is repealed.

SEC. 5. Section 830.1 of the Penal Code is amended to read:

830.1. (a) Any sheriff, undersheriff, or deputy sheriff, regularly employed and paid as such, of a county, any policeman of a city, any policeman of a district authorized by statute to maintain a police department, any marshal or deputy marshal of a municipal court, any constable or deputy constable, regularly employed and paid as such, of a judicial district, or any inspector or investigator regularly employed and paid as such in the office of a district attorney, is a peace officer. The authority of any such peace officer extends to any place in the state:

(1) As to any public offense committed or which there is probable cause to believe has been committed within the political subdivision which employs him; or

(2) Where he has the prior consent of the chief of police, or person authorized by him to give such consent, if the place is within a city or of the sheriff, or person authorized by him to give such consent, if the place is within a county; or

(3) As to any public offense committed or which there is probable cause to believe has been committed in his presence, and with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of such offense.

(b) The Deputy Director, assistant directors, chiefs, assistant chiefs, special agents, and narcotics agents of the Department of Justice, and such investigators who are 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.

SEC. 6. Section 830.2 of the Penal Code is amended to read:

830.2. The following persons are peace officers whose authority extends to any place in the state:

(a) Any member of the California Highway Patrol provided, that the primary duty of any such peace officer shall be the enforcement of the provisions of the Vehicle Code or of any other law relating to the use or operation of vehicles upon the highways, as that duty is set forth in the Vehicle Code.

(b) Any member of the California State Police Division provided, that the primary duty of any such peace officer shall be the protection of state properties and occupants thereof.

(c) Members of the California National Guard have the powers of

peace officers when they are (1) called or ordered into active state service by the Governor pursuant to the provisions of Section 143 or 146 of the Military and Veterans Code, (2) serving within the area wherein military assistance is required, and (3) directly assisting civil authorities in any of the situations specified in Section 143 or 146. The authority of any such peace officer extends to the area wherein military assistance is required as to a public offense committed or which there is reasonable cause to believe has been committed within that area. The requirements of Section 1031 of the Government Code are not applicable under such circumstances.

(d) A member of the University of California Police Department appointed pursuant to Section 92600 of the Education Code provided, that the primary duty of any such peace officer shall be the enforcement of the law within the area specified in Section 92600 of the Education Code.

(e) A member of the California State University and College Police Departments appointed pursuant to Section 89560 of the Education Code provided, that the primary duty of any such peace officer shall be the enforcement of the law within the area specified in Section 89560 of the Education Code.

(f) Any member of the Law Enforcement Liaison Unit of the Department of Corrections, provided that the primary duty of any such peace officer shall be the investigation or apprehension of parolees, parole violators, or escapees from state institutions, the transportation of such persons, and the coordination of such activities with other criminal justice agencies.

(g) Members of the Wildlife Protection Branch of the Department of Fish and Game, provided that the primary duty of such deputies shall be the enforcement of the law as set forth in Section 856 of the Fish and Game Code.

(h) Employees of the Department of Parks and Recreation designated by the director pursuant to Section 5008 of the Public Resources Code, provided that the primary duty of any such peace officer shall be the enforcement of the law as set forth in Section 5008 of the Public Resources Code.

SEC. 7. Section 830.3 of the Penal Code is amended to read:

830.3. The following persons are peace officers whose authority extends to any place in the state for the purpose of performing their primary duty or when making an arrest pursuant to Section 836 of the Penal Code as to any public offense with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of such offense, or pursuant to Section 8597 or Section 8598 of the Government Code. Such peace officers may carry firearms only if authorized and under such terms and conditions as are specified by their employing agencies:

(a) Persons employed by the Department of Alcoholic Beverage Control for the enforcement of the provisions of Division 9 (commencing with Section 23000) of the Business and Professions Code and designated by the Director of Alcoholic Beverage Control,

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.

(b) Persons employed by 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, and designated by the Director of Consumer Affairs, 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.

(c) Employees or classes of employees of the Department of Forestry and voluntary fire wardens as are designated by the Director of Forestry pursuant to Section 4156 of the Public Resources Code, 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.

(d) Employees of the Department of Motor Vehicles designated in Section 1655 of the Vehicle Code, 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.

(e) Investigators of the California Horse Racing Board designated by the board, 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.

(f) The State Fire Marshal and assistant or deputy state fire marshals appointed pursuant to Section 13103 of the Health and Safety Code, 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.

(g) Inspectors of the Food and Drug Section as are designated by the chief pursuant to subdivision (a) of Section 216 of the Health and Safety Code, 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 216 of such code.

(h) All investigators of the Division of Labor Standards Enforcement, as designated by the Labor Commissioner, 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.

(i) All investigators of the State Departments of Health Services, Social Services, Mental Health, Developmental Services, and Alcohol and Drug Programs and the Office of Statewide Health Planning and Development, 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.

(j) Marshals and police appointed by the Director of Parks and Recreation pursuant to Section 3324 of the Food and Agricultural Code, provided that the primary duty of any such peace officer shall

be the enforcement of the law as prescribed in Section 3324 of the Food and Agricultural Code.

(k) The Chief of the Bureau of Fraudulent Claims of the Department of Insurance and such investigators as designated by him, provided that the primary duty of such investigators shall be enforcement of the provisions of Section 556 of the Insurance Code.

SEC. 8. Section 830.31 of the Penal Code is repealed.

SEC. 9. Section 830.31 is added to the Penal Code, to read:

830.31. The following persons are peace officers whose authority extends to any place in the state for the purpose of performing their primary duty or when making an arrest pursuant to Section 836 as to any public offense with respect to which there is immediate danger to person or property, or of the escape of the perpetrator of such offense, or pursuant to Section 8597 or Section 8598 of the Government Code. Such peace officers may carry firearms only if authorized and under such terms and conditions as are specified by their employing agency.

(a) 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, provided that the primary duty of arson investigators shall be the detection and apprehension of persons who have violated any fire law or committed insurance fraud, and the primary duty 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.

(b) Persons designated by a local agency as park rangers, and regularly employed and paid as such, provided that the primary duty of any such peace officer shall be the protection of park property and the preservation of the peace therein.

(c) Members of a community college police department appointed pursuant to Section 72330 of the Education Code, 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.

(d) A welfare fraud or child support investigator or inspector, regularly employed and paid as such by a county, provided that the primary duty of any such peace officer shall be the enforcement of the provisions of the Welfare and Institutions Code and Section 270 of this code.

(e) The coroner and deputy coroners, regularly employed and paid as such, of a county, provided that the primary duty of any such peace officer are those duties set forth in Sections 27469 and 27491 to 27491.4, inclusive, of the Government Code.

(f) A member of the San Francisco Bay Area Rapid Transit District Police Department appointed pursuant to Section 28767.5 of the Public Utilities Code, provided that the primary duty of any such

peace officer shall be the enforcement of the law in or about properties owned, operated, or administered by the district or when performing necessary duties with respect to patrons, employees, and properties of the district.

(g) Harbor police regularly employed and paid as such by a county, city or district other than peace officers authorized under Section 830.1, and the port warden and special officers of the Harbor Department of the City of Los Angeles, provided that the primary duty of any such peace officer shall be the enforcement of the law in or about the properties owned, operated, or administered by the harbor or port or when performing necessary duties with respect to patrons, employees, and properties of the harbor or port.

(h) Persons designated as a security officer by a municipal utility district pursuant to Section 12820 of the Public Utilities Code, provided that the primary duty of any such officer shall be the protection of the properties of the utility district and the protection of the persons thereon.

SEC. 10. Section 830.35 of the Penal Code is repealed.

SEC. 11. Section 830.36 of the Penal Code is repealed.

SEC. 12. Section 830.4 of the Penal Code is amended to read:

830.4. The following persons are peace officers while engaged in the performance of their duties in or about the properties owned, operated, or administered by their employing agency, or when they are required by their employer to perform their duties anywhere within the political subdivision which employs them. Such officers shall also have the authority of peace officers anywhere in the state as to an 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 duty of such officer or when making an arrest pursuant to Section 836 of the Penal Code as to any public offense with respect to which there is an immediate danger to person or property or of the escape of the perpetrator of the offense. Such peace officers may carry firearms only if authorized by and under such terms and conditions as are specified by their employing agency:

- (a) Security officers of the California State Police Division.
- (b) The Sergeant at Arms of each house of the Legislature.
- (c) Bailiffs of the Supreme Court and of the courts of appeal.
- (d) Guards and messengers of the Treasurer's office.
- (e) Officers designated by the hospital administrator of a state hospital under the jurisdiction of the State Department of Mental Health or the State Department of Developmental Services pursuant to Section 4313 or 4493 of the Welfare and Institutions Code.
- (f) Any railroad policeman commissioned by the Governor pursuant to Section 8226 of the Public Utilities Code.
- (g) Persons employed as members of a security department of a school district pursuant to Section 39670 of the Education Code.
- (h) Security officers of the County of Los Angeles.
- (i) Housing authority patrol officers employed by the housing

authority of a city, district, county, or city and county.

(j) Transit police officers of a county, city, or district.

(k) Any person regularly employed as an airport officer by the city or county operating the airport.

SEC. 12.5. Section 830.4 of the Penal Code is amended to read:

830.4. The following persons are peace officers while engaged in the performance of their duties in or about the properties owned, operated, or administered by their employing agency, or when they are required by their employer to perform their duties anywhere within the political subdivision which employs them. Such officers shall also have the authority of peace officers anywhere in the state as to an 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 duty of such officer or when making an arrest pursuant to Section 836 of the Penal Code as to any public offense with respect to which there is an immediate danger to person or property or of the escape of the perpetrator of the offense. Such peace officers may carry firearms only if authorized by and under such terms and conditions as are specified by their employing agency:

(a) Security officers of the California State Police Division.

(b) The Sergeant at Arms of each house of the Legislature.

(c) Bailiffs of the Supreme Court and of the courts of appeal.

(d) Guards and messengers of the Treasurer's office.

(e) Officers designated by 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 4313 or 4493 of the Welfare and Institutions Code.

(f) Any railroad policeman appointed pursuant to Section 8226 of the Public Utilities Code.

(g) Persons employed as members of a security department of a school district pursuant to Section 39670 of the Education Code.

(h) Security officers of the County of Los Angeles.

(i) Housing authority patrol officers employed by the housing authority of a city, district, county, or city and county.

(j) Transit police officers of a county, city, or district.

(k) Any person regularly employed as an airport officer by the city or county operating the airport.

SEC. 13. Section 830.5 of the Penal Code is amended to read:

830.5. The following persons are peace officers whose authority extends to any place in the state while engaged in the performance of the duties of their respective employment and for the purpose of carrying out the primary function of their employment or as required under Sections 8597, 8598, and 8617 of the Government Code. Such peace officer may carry firearms only if authorized and under such terms and conditions as are specified by their employing agency:

(a) A parole officer of the Department of Corrections or the

Department of the Youth Authority, probation officer, or deputy probation officer. Except as otherwise provided in this subdivision, the authority of such parole or probation 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 or local institution; (3) to the transportation of such persons; and (4) to violations of any penal provisions of law which are discovered in the course of and arise in connection with his employment.

(b) A correctional officer employed by the Department of Corrections or any employee of the Department of the Youth Authority having custody of wards or any employee of the Department of Corrections designated by the Director of Corrections or employee of the Board of Prison Terms designated by the Secretary of the Youth and Adult Correctional Agency or employee of the Department of the Youth Authority designated by the Director of the Department of the Youth Authority, any superintendent, supervisor, or employee having custody of wards in an institution operated by a probation department, and any transportation officer of a probation department.

SEC. 14. Section 830.5a of the Penal Code is repealed.

SEC. 15. Section 830.6 of the Penal Code is amended to read:

830.6. (a) Whenever any qualified person is deputized or appointed by the proper authority as a reserve or auxiliary sheriff or city policeman, a deputy sheriff, a reserve police officer of a regional park district, or a deputy of the Department of Fish and Game, and is assigned specific police functions by such authority, such person is a peace officer; provided, such person qualifies as set forth in Section 832.6, and provided further, that the authority of such person as a peace officer shall extend only for the duration of such specific assignment.

(b) Whenever any person is summoned to the aid of any uniformed peace officer, such person shall be vested with such powers of a peace officer as are expressly delegated him by the summoning officer or as are otherwise reasonably necessary to properly assist such officer.

SEC. 15.5. Section 830.6 of the Penal Code is amended to read:

830.6. (a) (1) Whenever any qualified person is deputized or appointed by the proper authority as a reserve or auxiliary sheriff or city policeman, a deputy sheriff, a reserve police officer of a regional park district, or a deputy of the Department of Fish and Game, and is assigned specific police functions by such authority, such person is a peace officer; provided, such person qualifies as set forth in Section 832.6, and provided further, that the authority of such person as a peace officer shall extend only for the duration of such specific assignment.

(2) Whenever any qualified person is deputized or appointed by the proper authority as a reserve or auxiliary sheriff or city policeman, a deputy sheriff, or a reserve police officer of a regional

park district, and is so designated by local ordinance or, if the local agency is not authorized to act by ordinance, by resolution, either individually or by class, and is assigned to the prevention and detection of crime and the general enforcement of the laws of this state by such authority, such person is a peace officer; provided such person qualifies as set forth in paragraph (1) of subdivision (a) of Section 832.6, and provided further, that the authority of such person shall include the full powers and duties of a peace officer as provided by Section 830.1.

(b) Whenever any person is summoned to the aid of any uniformed peace officer, such person shall be vested with such powers of a peace officer as are expressly delegated him by the summoning officer or as are otherwise reasonably necessary to properly assist such officer.

SEC. 16. Section 830.7 of the Penal Code is repealed.

SEC. 17. Section 830.7 is added to the Penal Code, to read:

830.7. The following persons are not peace officers but may exercise the powers of arrest of a peace officer as specified in Section 836 during the course and within the scope of their employment, provided that they receive a course in the exercise of such powers pursuant to Section 832:

(a) Persons designated by a cemetery authority pursuant to Section 8325 of the Health and Safety Code.

(b) Persons regularly employed as security officers for institutions of higher education, recognized under subdivision (a) of Section 94310 of the Education Code, provided that such institution has concluded a memorandum of understanding, permitting the exercise of such authority, with the sheriff or chief of police within whose jurisdiction the institution lies.

SEC. 18. Section 830.8 is added to the Penal Code, to read:

830.8. (a) Federal criminal investigators are not California peace officers but may exercise the powers of arrest of a peace officer as specified in Section 836 and the powers of a peace officer specified in Section 5150 of the Welfare and Institutions Code for violations of state or local laws provided that such investigators are engaged in the enforcement of federal criminal laws and exercise such arrest powers only incidental to the performance of their federal duties. Such investigators, prior to the exercise of such arrest powers shall have been certified by their agency heads as having satisfied the training requirements of Section 832.

(b) Duly authorized federal employees, are peace officers, 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.

SEC. 19. Section 830.10 of the Penal Code is repealed.

SEC. 20. Section 830.10 is added to the Penal Code, to read:

830.10. Any uniformed peace officer shall wear a badge, nameplate, or other device which bears clearly on its face the

identification number or name of such officer.

SEC. 21. Section 830.11 of the Penal Code is repealed.

SEC. 22. Section 831 of the Penal Code is amended to read:

831. (a) A custodial officer is a public officer, not a peace officer, employed by a law enforcement agency of a city or county 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.

(b) A custodial officer shall have no right to carry or possess firearms in the performance of his prescribed duties.

(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 release without further criminal process persons arrested for intoxication; and may release misdemeanants on citation to appear in lieu of or after booking.

SEC. 23. Section 832.4 of the Penal Code is amended to read:

832.4. Any undersheriff or deputy sheriff of a county, any policeman of a city, and any policeman of a district authorized by statute to maintain a police department, who is first employed after January 1, 1974, and is responsible for the prevention and detection of crime and the general enforcement of the criminal laws of this state, shall obtain the basic certificate issued by the Commission on Peace Officer Standards and Training within 18 months of his employment in order to continue to exercise the powers of a peace officer after the expiration of such 18-month period.

SEC. 24. Section 12027 of the Penal Code is amended to read:

12027. Section 12025 does not apply to or affect any of the following:

(a) Peace officers listed in Section 830.1 or 830.2 whether active or honorably retired, other duly appointed peace officers, full-time paid peace officers of other states and the federal government who are carrying out official duties while in California, or any person summoned by any such officers to assist in making arrests or

preserving the peace while he is actually engaged in assisting such officer.

The agency from which a peace officer is honorably retired may, upon initial retirement of the peace officer, or at anytime subsequent thereto, deny or revoke, for good cause, the retired officer's privilege to carry a weapon as provided in this subdivision.

A retired peace officer shall petition the issuing agency for renewal of his or her privilege to carry a concealed firearm every five years. Any peace officer who has been honorably retired shall be issued an identification certificate containing an endorsement by the issuing agency indicating whether or not the retired peace officer has the privilege to carry a weapon pursuant to this subdivision and the date when the endorsement is to be reviewed again.

(b) The possession or transportation by any merchant of unloaded firearms as merchandise.

(c) Members of the Army, Navy, or Marine Corps of the United States, or the National Guard, when on duty, or organizations which are by law authorized to purchase or receive such weapons from the United States or this state.

(d) Duly authorized military or civil organizations while parading, or the members thereof when going to and from the places of meeting of their respective organizations.

(e) Guards or messengers of common carriers, banks, and other financial institutions while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state.

(f) Members of any club or organization organized for the purpose of practicing shooting at targets upon established target ranges, whether public or private, while such members are using any of the firearms referred to in this chapter upon such target ranges, or while going to and from such ranges.

(g) Licensed hunters or fishermen while engaged in hunting or fishing, or while going to or returning from such hunting or fishing expedition.

(h) Members of any club or organization organized for the purpose of collecting and displaying antique or historical pistols, revolvers or other firearms, while such members are displaying such weapons at meetings of such clubs or organizations or while going to and from such meetings, or individuals who collect such firearms not designed to fire, or incapable of firing fixed cartridges or fixed shot shells, or other firearms of obsolete ignition type for which ammunition is not readily available and which are generally recognized as collector's items, provided such firearm is kept in the trunk. If the vehicle is not equipped with a trunk, such firearm shall be kept in a locked container in an area of the vehicle other than the utility or glove compartment.

SEC. 25. Section 12031 of the Penal Code is amended to read:

12031. (a) Except as provided in subdivision (b), (c), or (d), every person who carries a loaded firearm on his person or in a

vehicle while in any public place or on any public street in an incorporated city or in any public place or on any public street in a prohibited area of unincorporated territory is guilty of a misdemeanor.

(b) Subdivision (a) shall not apply to any of the following:

(1) Peace officers listed in Section 830.1 or 830.2, whether active or honorably retired, other duly appointed peace officers, full-time paid peace officers of other states and the federal government who are carrying out official duties while in California, or any person summoned by any such officers to assist in making arrests or preserving the peace while he is actually engaged in assisting such officer.

The agency from which a peace officer is honorably retired may, upon initial retirement of the peace officer, or at any time subsequent thereto, deny or revoke, for good cause, the retired officer's privilege to carry a weapon as provided in this paragraph. A retired peace officer shall petition the issuing agency for renewal of his or her privilege to carry a loaded firearm in public every five years. Any peace officer who has been honorably retired shall be issued an identification certificate containing an endorsement by the issuing agency indicating whether or not the retired peace officer has the privilege to carry a weapon pursuant to this paragraph and the date when the endorsement is to be reviewed again.

(2) Members of the military forces of this state or of the United States engaged in the performance of their duties.

(3) Persons who are using target ranges for the purpose of practice shooting with a firearm or who are members of shooting clubs while hunting on the premises of such clubs.

(4) The carrying of concealable weapons by persons who are authorized to carry such weapons pursuant to Article 3 (commencing with Section 12050) of Chapter 1 of Title 2 of Part 4 of the Penal Code.

(5) Armored vehicle guards, as defined in Section 7521 of the Business and Professions Code, (A) if hired prior to January 1, 1977; or (B) if hired on or after such date, if they have received a Firearms Qualification Card from the Department of Consumer Affairs, in each case while acting within the course and scope of their employment.

(c) Subdivision (a) shall not apply to any of the following who have completed a regular course in firearms training approved by the Commission on Peace Officer Standards and Training:

(1) Patrol special police officers appointed by the police commission of any city, county, or city and county under the express terms of its charter who also under the express terms of the charter (i) are subject to suspension or dismissal after a hearing on charges duly filed with the commission after a fair and impartial trial, (ii) must be not less than 18 years of age nor more than 40 years of age, (iii) must possess physical qualifications prescribed by the commission, and (iv) are designated by the police commission as the

owners of a certain beat or territory as may be fixed from time to time by the police commission.

(2) The carrying of weapons by animal control officers or zookeepers, regularly compensated as such by a governmental agency when acting in the course and scope of their employment and when designated by a local ordinance or, if the governmental agency is not authorized to act by ordinance, by a resolution, either individually or by class, to carry such weapons, or by persons who are authorized to carry such weapons pursuant to Section 607f of the Civil Code, while actually engaged in the performance of their duties pursuant to such section.

(3) Harbor policemen designated pursuant to Section 663.5 of the Harbors and Navigation Code.

(d) Subdivision (a) shall not apply to any of the following who have been issued a certificate pursuant to Section 12033. Such certificate shall not be required of any person who is a peace officer, who has completed all training required by law for the exercise of his power as a peace officer, and who is employed while not on duty as such peace officer.

(1) Guards or messengers of common carriers, banks, and other financial institutions while actually employed in and about the shipment, transportation, or delivery of any money, treasure, bullion, bonds, or other thing of value within this state.

(2) Guards of contract carriers operating armored vehicles pursuant to California Highway Patrol and Public Utilities Commission authority (i) if hired prior to January 1, 1977; or (ii) if hired on or after January 1, 1977, if they have completed a course in the carrying and use of firearms which meets the standards prescribed by the Department of Consumer Affairs.

(3) Private investigators, private patrol operators, and alarm company operators who are licensed pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code, while acting within the course and scope of their employment.

(4) Uniformed security guards or night watchmen employed by any public agency, while acting within the scope and in the course of their employment.

(5) Uniformed security guards, regularly employed and compensated as such by persons engaged in any lawful business, while actually engaged in protecting and preserving the property of their employers and uniformed alarm agents employed by an alarm company operator while on duty. Nothing in this paragraph shall be construed to prohibit cities and counties from enacting ordinances requiring alarm agents to register their name.

(6) Uniformed employees of private patrol operators and uniformed employees of private investigators licensed pursuant to Chapter 11 (commencing with Section 7500) of Division 3 of the Business and Professions Code while acting within the course and scope of their employment as private patrolmen or private

investigators.

(e) In order to determine whether or not a firearm is loaded for the purpose of enforcing this section, peace officers are authorized to examine any firearm carried by anyone on his person or in a vehicle while in any public place or on any public street in an incorporated city or prohibited area of an unincorporated territory. Refusal to allow a peace officer to inspect a firearm pursuant to the provisions of this section constitutes probable cause for arrest for violation of this section.

(f) As used in this section "prohibited area" means any place where it is unlawful to discharge a weapon.

(g) A firearm shall be deemed to be loaded for the purposes of this section when there is an unexpended cartridge or shell, consisting of a case which holds a charge of powder and a bullet or shot, in, or attached in any manner to, the firearm, including, but not limited to, in the firing chamber, magazine, or clip thereof attached to the firearm; except that a muzzle-loader firearm shall be deemed to be loaded when it is capped or primed and has a powder charge and ball or shot in the barrel or cylinder.

(h) Nothing in this section shall prevent any person engaged in any lawful business, including a nonprofit organization, or any officer, employee, or agent authorized by such person for lawful purposes connected with such business, from having a loaded firearm within such person's place of business, or any person in lawful possession of private property from having a loaded firearm on such property.

(i) Nothing in this section shall prevent any person from carrying a loaded firearm in an area within an incorporated city while engaged in hunting, during such time and in such area as the hunting is not prohibited by the city council.

(j) Nothing in this section is intended to preclude the carrying of any loaded firearm, under circumstances where it would otherwise be lawful, by a person who reasonably believes that the person or property of himself or another is in immediate danger and that the carrying of such weapon is necessary for the preservation of such person or property.

(k) Nothing in this section is intended to preclude the carrying of a loaded firearm by any person while engaged in the act of making or attempting to make a lawful arrest.

(l) Nothing in this section shall prevent any person from having a loaded weapon, if it is otherwise lawful, at his place of residence, including any temporary residence or campsite.

SEC. 26. Section 13012 of the Penal Code is amended to read:  
13012. The annual report of the department provided for in Section 13010 shall contain statistics showing:

(a) The amount and the types of offenses known to the public authorities;

(b) The personal and social characteristics of criminals and delinquents; and

(c) The administrative actions taken by law enforcement, judicial, penal and correctional agencies or institutions in dealing with criminals or delinquents.

(d) The number of citizens complaints received by law enforcement agencies under Section 832.5. Such statistics shall indicate the total number of such complaints, the number alleging criminal conduct of either a felony or misdemeanor, and the number sustained in each category. The report shall not contain a reference to any individual agency but shall be by gross numbers only.

It shall be the duty of the department to give adequate interpretation of such statistics and so to present the information that it may be of value in guiding the policies of the Legislature and of those in charge of the apprehension, prosecution and treatment of the criminals and delinquents, or concerned with the prevention of crime and delinquency. The report shall include also statistics which are comparable with national uniform criminal statistics published by federal bureaus or departments heretofore mentioned.

SEC. 26.5. Section 165 of the Vehicle Code is amended to read:

165. An authorized emergency vehicle is:

(a) Any publicly owned ambulance, lifeguard or lifesaving equipment or any privately owned ambulance used to respond to emergency calls and operated under a license issued by the Commissioner of the California Highway Patrol.

(b) Any publicly owned vehicle operated by the following persons, agencies, or organizations:

(1) Any federal, state, or local agency or department employing peace officers as that term is defined in Chapter 4.5 (commencing with Section 830) of Part 2 of Title 3 of the Penal Code, for use by such officers in the performance of their duties.

(2) Any forestry or fire department of any public agency or fire department organized as provided in the Health and Safety Code.

(c) Any vehicle owned by the state, or any bridge and highway district, and equipped and used either for fighting fires, or towing or servicing other vehicles, caring for injured persons, or repairing damaged lighting or electrical equipment.

(d) Any state-owned vehicle used in responding to emergency fire, rescue or communications calls and operated either by the Office of Emergency Services or by any public agency or industrial fire department to which the Office of Emergency Services has assigned such vehicle.

(e) Any vehicle owned or operated by any department or agency of the United States government when such vehicle is used in responding to emergency fire, ambulance, or lifesaving calls.

(f) Any vehicle for which an authorized emergency vehicle permit has been issued by the Commissioner of the California Highway Patrol.

SEC. 27. Section 165.3 of the Vehicle Code is repealed.

SEC. 28. Section 165.4 of the Vehicle Code is repealed.

SEC. 29. Section 1808.4 of the Vehicle Code is amended to read:

1808.4. The home address of any district attorney, or any peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code appearing in any record of the department is confidential if the district attorney or peace officer requests confidentiality of that information, and shall not be disclosed to any person, except a court, a law enforcement agency, the State Board of Equalization, or any governmental agency to which, under any provision of law, information is required to be furnished from records maintained by the department. Any record of the department containing such a confidential home address shall be open to public inspection, as provided in Section 1808, if the address is completely obliterated or otherwise removed from the record. The department shall tell any person who requests a confidential home address what law enforcement agency or department the individual whose address was requested works for.

SEC. 29.5. Section 1808.4 of the Vehicle Code is amended to read:

1808.4. The home address of any Member of the Legislature, any judge or court commissioner, any district attorney, or any peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code appearing in any record of the department is confidential if the Member of the Legislature, the judge, court commissioner, district attorney, or peace officer requests confidentiality of that information, and shall not be disclosed to any person, except a court, a law enforcement agency, the State Board of Equalization, or any governmental agency to which, under any provision of law, information is required to be furnished from records maintained by the department. Any record of the department containing such a confidential home address shall be open to public inspection, as provided in Section 1808, if the address is completely obliterated or otherwise removed from the record. The department shall tell any person who requests a confidential home address what law enforcement agency or department the individual whose address was requested works for or the court at which the judge or court commissioner presides.

SEC. 30. Section 2416 of the Vehicle Code is amended to read:

2416. (a) The Commissioner of the California Highway Patrol may issue authorized emergency vehicle permits only for the following vehicles, and then only upon a finding in each case that the vehicle is used in responding to emergency calls for fire or law enforcement or for the immediate preservation of life or property or for the apprehension of law violators:

(1) Any vehicle maintained in whole or in part by the state, a county or a city and privately owned and operated by a constable, deputy constable, or person who is a member of, and who receives salary from, and is regularly employed by, a police department or sheriff's department, provided the state, county or city does not furnish to such person a publicly owned authorized emergency vehicle.

(2) An emergency repair vehicle of a utility or public utility.

(3) Firefighting equipment designed and operated exclusively as such.

(4) Any vehicle operated by the chief, assistant chief, or one other uniformed person designated by the chief of a fire department organized as provided in the Health and Safety Code or the Government Code or pursuant to special act of the Legislature.

(5) Any vehicle of an air pollution control district used to enforce provisions of law relating to air pollution from motor vehicles.

(6) Any vehicle operated by the chief of any fire department established on any base of the armed forces of the United States.

(7) Any vehicle owned and operated by any fire company organized pursuant to Part 4 (commencing with Section 14825) of the Health and Safety Code.

(b) Privately owned ambulances may be operated as emergency vehicles only under a license issued in accordance with the provisions of Chapter 2.5 (commencing with Section 2500) of this division.

(c) The commissioner may adopt and enforce regulations to implement this section.

(d) Violation of any regulation adopted by the commissioner pursuant to this section is a misdemeanor.

SEC. 31. Section 22651 of the Vehicle Code is amended to read:

22651. Any peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code; or any regularly employed and salaried employee, who is engaged in directing traffic or enforcing parking laws and regulations, of a city or a county in which a vehicle is located may remove a vehicle from a highway, located within the territorial limits in which the officer or employee is empowered to act under any of the following circumstances:

(a) When any vehicle is left unattended upon any bridge, viaduct, or causeway or in any tube or tunnel where the vehicle constitutes an obstruction to traffic.

(b) When any vehicle is parked or left standing upon a highway in such a position as to obstruct the normal movement of traffic or in such a condition as to create a hazard to other traffic upon the highway.

(c) When any vehicle is found upon a highway and report has previously been made that the vehicle has been stolen or complaint has been filed and a warrant thereon issued charging that the vehicle has been embezzled.

(d) When any vehicle is illegally parked so as to block the entrance to a private driveway and it is impractical to move such vehicle from in front of the driveway to another point on the highway.

(e) When any vehicle is illegally parked so as to prevent access by firefighting equipment to a fire hydrant and it is impracticable to move such vehicle from in front of the fire hydrant to another point on the highway.

(f) When any vehicle, except any highway maintenance or construction equipment, is left unattended for more than four hours upon the right-of-way of any freeway which has full control of access and no crossings at grade.

(g) When the person or persons in charge of a vehicle upon a highway are by reason of physical injuries or illness incapacitated to such an extent as to be unable to provide for its custody or removal.

(h) When an officer arrests any person driving or in control of a vehicle for an alleged offense and the officer is by this code or other law required or permitted to take, and does take, the person arrested before a magistrate without unnecessary delay.

(i) When any vehicle registered in a foreign jurisdiction is found upon a highway and it is known to have been issued five or more notices of parking violation over a period of five or more days, to which the owner or person in control of the vehicle has not responded, the vehicle may be impounded until such person furnishes to the impounding law enforcement agency evidence of his identity and an address within this state at which he can be located and satisfactory evidence that bail has been deposited for all notices of parking violation issued for the vehicle. A notice of parking violation issued to such a vehicle shall be accompanied by a warning that repeated violations may result in the impounding of the vehicle. In lieu of requiring satisfactory evidence that such bail has been deposited, the impounding law enforcement agency may, in its discretion, issue a notice to appear for the offenses charged, as provided in Article 2 (commencing with Section 40500) of Chapter 2 of Division 17. In lieu of either furnishing satisfactory evidence that such bail has been deposited or accepting the notice to appear, such person may demand to be taken without unnecessary delay before a magistrate within the county in which the offenses charged are alleged to have been committed and who has jurisdiction of the offenses and is nearest or most accessible with reference to the place where the vehicle is impounded.

(j) When any vehicle is found illegally parked and there are no license plates or other evidence of registration displayed, the vehicle may be impounded until the owner or person in control of the vehicle furnishes the impounding law enforcement agency evidence of his identity and an address within this state at which he can be located.

(k) When any vehicle is parked or left standing upon a highway for 72 or more consecutive hours in violation of a local ordinance authorizing removal.

(l) When any vehicle is illegally parked on a highway in violation of any local ordinance forbidding standing or parking and the use of a highway or a portion thereof is necessary for the cleaning, repair, or construction of the highway, or for the installation of underground utilities, and signs giving notice that such a vehicle may be removed are erected or placed at least 24 hours prior to the removal by local authorities pursuant to the ordinance.

(m) Wherever the use of the highway or any portion thereof is authorized by local authorities for a purpose other than the normal flow of traffic or for the movement of equipment, articles, or structures of unusual size, and the parking of any vehicle would prohibit or interfere with such use or movement, and signs giving notice that such a vehicle may be removed are erected or placed at least 24 hours prior to the removal by local authorities pursuant to the ordinance.

(n) Whenever any vehicle is parked or left standing where local authorities by resolution or ordinance have prohibited such parking and have authorized the removal of vehicles. No vehicle may be removed unless signs are posted giving notice of the removal.

SEC. 32. Section 22653 of the Vehicle Code is amended to read:

22653. (a) Any peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, other than an employee directing traffic or enforcing parking laws and regulations, may remove a vehicle from private property located within the territorial limits in which the officer is empowered to act, when a report has previously been made that the vehicle has been stolen or a complaint has been filed and a warrant thereon issued charging that the vehicle has been embezzled.

(b) Any peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, may, after a reasonable period of time, remove a vehicle from private property located within the territorial limits in which the officer is empowered to act, if the vehicle has been involved in, and left at the scene of, a traffic accident and no owner is available to grant permission to remove the vehicle. This subdivision does not authorize the removal of a vehicle where the owner has been contacted and has refused to grant permission to remove the vehicle.

SEC. 33. Section 22654 of the Vehicle Code is amended to read:

22654. (a) Whenever any peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, or other employee directing traffic or enforcing parking laws and regulations, finds a vehicle standing upon a highway, located within the territorial limits in which the officer or employee is empowered to act, in violation of Sections 22500 and 22504, the officer or employee may move the vehicle or require the driver or other person in charge of the vehicle to move it to the nearest available position off the roadway or to the nearest parking location, or may remove and store the vehicle if moving it off the roadway to a parking location is impracticable.

(b) Whenever such an officer or employee finds a vehicle standing upon a street, located within the territorial limits in which the officer or employee is empowered to act, in violation of a traffic ordinance enacted by local authorities to prevent flooding of adjacent property, he or she may move the vehicle or require the driver or person in charge of the vehicle to move it to the nearest available location in the vicinity where parking is permitted.

(c) Any state, county, or city authority charged with the maintenance of any highway may move any vehicle which is disabled or abandoned or which constitutes an obstruction to traffic from the place where it is located on a highway to the nearest available position on the same highway as may be necessary to keep the highway open or safe for public travel. In addition, employees of the Department of Transportation may remove any disabled vehicle which constitutes an obstruction to traffic on a freeway from the place where it is located to the nearest available location where parking is permitted; and if the vehicle is unoccupied, the department shall comply with the notice requirements of subdivision (d) of this section.

(d) Any state, county, or city authority charged with the maintenance or operation of any highway, highway facility, or public works facility, in cases necessitating the prompt performance of any work on or service to such highway, highway facility, or public works facility, may move to the nearest available location where parking is permitted, any unattended vehicle which obstructs or interferes with the performance of such work or service or may remove and store such a vehicle if moving it off the roadway to a location where parking is permitted would be impracticable. If the vehicle is moved to another location where it is not readily visible from its former parked location or it is stored, the person causing such movement or storage of the vehicle shall immediately, by the most expeditious means, notify the owner of the vehicle of its location. If for any reason the vehicle owner cannot be so notified, the person causing the vehicle to be moved or stored shall immediately, by the most expeditious means, notify the police department of the city in which the vehicle was parked, or, if the vehicle had been parked in an unincorporated area of a county, notify the sheriff's department and nearest office of the California Highway Patrol in that county. No vehicle may be removed and stored pursuant to this subdivision unless signs indicating that no person shall stop, park, or leave standing any vehicle within the areas marked by the signs because such work or service would be done, were placed at least 24 hours prior to such movement or removal and storage.

SEC. 34. Section 22655 of the Vehicle Code is amended to read:

22655. (a) When any peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, has reasonable cause to believe that a motor vehicle on a highway or on private property open to the general public onto which the public is explicitly or implicitly invited, located within the territorial limits in which the officer is empowered to act, has been involved in a hit-and-run accident, and the operator of the vehicle has failed to stop and comply with the provisions of Sections 20002 to 20006, inclusive, the officer may remove the vehicle from the highway or from public or private property for the purpose of inspection.

(b) Unless sooner released, the vehicle shall be released upon the

expiration of 48 hours after such removal from the highway or private property upon demand of the owner. When determining the 48-hour period, weekends, and holidays shall not be included.

(c) Notwithstanding subdivision (b), when a motor vehicle to be inspected pursuant to subdivision (a) is a commercial vehicle, any cargo within the vehicle may be removed or transferred to another vehicle.

This section shall not be construed to authorize the removal of any vehicle from an enclosed structure on private property which is not open to the general public.

SEC. 35. Section 22656 of the Vehicle Code is amended to read:  
22656. Any peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, may remove a vehicle from a railroad right-of-way located within the territorial limits in which the officer is empowered to act if the vehicle is parked upon any railroad track or within 7½ feet of the nearest rail.

SEC. 36. Section 22657.5 of the Vehicle Code is repealed.

SEC. 37. Section 22659 of the Vehicle Code is repealed.

SEC. 38. Section 22702 of the Vehicle Code is amended to read:  
22702. (a) Any peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, or any other employee of the state, county, or city designated by an agency or department of the state or the board of supervisors or city council to perform this function, in the territorial limits in which the officer or employee is authorized to act, who has reasonable grounds to believe that the vehicle has been abandoned, may remove the vehicle from a highway or from public or private property.

(b) Any person performing a franchise or contract awarded pursuant to subdivision (a) of Section 22710, may remove a vehicle from a highway or place to which it has been removed pursuant to subdivision (c) of Section 22654 or from public or private property, after a determination by a peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, or other designated employee of the state, county, or city in which such vehicle is located that such vehicle is abandoned.

(c) The public agency employing the officer shall make an appraisal of any such vehicle either prior to or within five days after removal.

(d) A state, county, or city employee, other than a peace officer or employee of a sheriff's department or city police department, designated to remove vehicles pursuant to this section may do so only after he has mailed or personally delivered a written report identifying the vehicle and its location to the office of the Department of the California Highway Patrol located nearest to the vehicle.

SEC. 38.2. Section 22702 of the Vehicle Code is amended and renumbered to read:

22669. (a) Any peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, or any other employee of the state, county, or city designated by an agency or department of the state or the board of supervisors or city council to perform this function, in the territorial limits in which the officer or employee is authorized to act who has reasonable grounds to believe that the vehicle has been abandoned, as determined pursuant to Section 22523, may remove the vehicle from a highway or from public or private property.

(b) Any person performing a franchise or contract awarded pursuant to subdivision (a) of Section 22710, may remove a vehicle from a highway or place to which it has been removed pursuant to subdivision (c) of Section 22654 or from public or private property, after a determination by a peace officer, as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code, or other designated employee of the state, county, or city in which such vehicle is located that such vehicle is abandoned, as determined pursuant to Section 22523.

(c) A state, county, or city employee, other than a peace officer or employee of a sheriff's department or a city police department, designated to remove vehicles pursuant to this section may do so only after he or she has mailed or personally delivered a written report identifying the vehicle and its location to the office of the Department of the California Highway Patrol located nearest to the vehicle.

SEC. 38.5. Section 5008 of the Welfare and Institutions Code is amended to read:

5008. Unless the context otherwise requires, the following definitions shall govern the construction of this part:

(a) "Evaluation" consists of multidisciplinary professional analyses of a person's medical, psychological, educational, social, financial, and legal conditions as may appear to constitute a problem. Persons providing evaluation services shall be properly qualified professionals and may be full-time employees of an agency providing evaluation services or may be part-time employees or may be employed on a contractual basis;

(b) "Court-ordered evaluation" means an evaluation ordered by a superior court pursuant to Article 2 (commencing with Section 5200) or by a court pursuant to Article 3 (commencing with Section 5225) of Chapter 2 of this part;

(c) "Intensive treatment" consists of such hospital and other services as may be indicated. Intensive treatment shall be provided by properly qualified professionals and carried out in facilities qualifying for reimbursement under the California Medical Assistance Program (Medi-Cal) set forth in Chapter 7 (commencing with Section 14000) of Part 3 of Division 9 of this code, or under Title XVIII of the federal Social Security Act and regulations thereunder. Intensive treatment may be provided in hospitals of the United States government by properly qualified professionals. Nothing in

this part shall be construed to prohibit an intensive treatment facility from also providing 72-hour treatment and evaluation;

(d) "Referral" is referral of persons by each agency or facility providing intensive treatment or evaluation services to other agencies or individuals. The purpose of referral shall be to provide for continuity of care, and may include, but need not be limited to, informing the person of available services, making appointments on the person's behalf, discussing the person's problem with the agency or individual to which the person has been referred, appraising the outcome of referrals, and arranging for personal escort and transportation when necessary. Referral shall be considered complete when the agency or individual to whom the person has been referred accepts responsibility for providing the necessary services. All persons shall be advised of available precare services which prevent initial recourse to hospital treatment or aftercare services which support adjustment to community living following hospital treatment. Such services may be provided through county welfare departments, State Department of Mental Health, Short-Doyle programs or other local agencies.

Each agency or facility providing evaluation services shall maintain a current and comprehensive file of all community services, both public and private. Such files shall contain current agreements with agencies or individuals accepting referrals, as well as appraisals of the results of past referrals;

(e) "Crisis intervention" consists of an interview or series of interviews within a brief period of time, conducted by qualified professionals, and designed to alleviate personal or family situations which present a serious and imminent threat to the health or stability of the person or the family. The interview or interviews may be conducted in the home of the person or family, or on an inpatient or outpatient basis with such therapy, or other services, as may be appropriate. Crisis intervention may, as appropriate, include suicide prevention, psychiatric, welfare, psychological, legal, or other social services;

(f) "Prepetition screening" is a screening of all petitions for court-ordered evaluation as provided in Article 2 (commencing with Section 5200) of Chapter 2, consisting of a professional review of all petitions; an interview with the petitioner and, whenever possible, the person alleged, as a result of mental disorder, to be a danger to others, or to himself, or to be gravely disabled, to assess the problem and explain the petition; when indicated, efforts to persuade the person to receive, on a voluntary basis, comprehensive evaluation, crisis intervention, referral, and other services specified in this part;

(g) "Conservatorship investigation" means investigation by an agency appointed or designated by the governing body of cases in which conservatorship is recommended pursuant to Chapter 3 (commencing with Section 5350) of this part;

(h) For purposes of Article 1 (commencing with Section 5150), Article 2 (commencing with Section 5200), and Article 4

(commencing with Section 5250) of Chapter 2 of this part, and for the purposes of Chapter 3 (commencing with Section 5350) of this part, "gravely disabled" means:

(1) A condition in which a person, as a result of a mental disorder, is unable to provide for his basic personal needs for food, clothing, or shelter; or

(2) A condition in which a person, has been found mentally incompetent under Section 1370 of the Penal Code and all of the following facts exist:

(i) The indictment or information pending against the defendant at the time of commitment charges a felony involving death, great bodily harm, or a serious threat to the physical well-being of another person.

(ii) The indictment or information has not been dismissed.

(iii) As a result of mental disorder, the person is unable to understand the nature and purpose of the proceedings taken against him and to assist counsel in the conduct of his defense in a rational manner.

For purposes of Article 3 (commencing with Section 5225) and Article 4 (commencing with Section 5250), of Chapter 2 of this part, and for the purposes of Chapter 3 (commencing with Section 5350) of this part, "gravely disabled" means a condition in which a person, as a result of impairment by chronic alcoholism, is unable to provide for his basic personal needs for food, clothing, or shelter.

The term "gravely disabled" does not include mentally retarded persons by reason of being mentally retarded alone;

(i) "Peace officer" means a duly sworn peace officer as that term is defined in Chapter 4.5 (commencing with Section 830) of Title 3 of Part 2 of the Penal Code who has completed the basic training course established by the Commission on Peace Officer Standards and Training, or any parole officer or probation officer specified in Section 830.5 of the Penal Code when acting in relation to cases for which he or she has a legally mandated responsibility;

(j) "Postcertification treatment" means an additional period of treatment pursuant to Article 6 (commencing with Section 5300) of Chapter 2 of this part;

(k) "Court," unless otherwise specified, means a court of record or a justice court;

(l) A gravely disabled minor is a minor who, as a result of a mental disorder, is unable to use the elements of life which are essential to health, safety, and development, including food, clothing, and shelter, even though provided to the minor by others.

SEC. 38.6. It is the intent of the Legislature, if this bill and Assembly Bill 1893 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 830.4 of the Penal Code, and this bill is chaptered after Assembly Bill 1893, that Section 830.4 of the Penal Code, as amended by Section 12 of this act, shall remain operative until the effective date of Assembly Bill 1893, and that on the effective date of Assembly Bill 1893, Section 830.4 of the

Penal Code, as amended by Section 12 of this act, be further amended in the form set forth in Section 12.5 of this act to incorporate the changes in Section 830.4 proposed by Assembly Bill 1893. Therefore, if this bill and Assembly Bill 1893 are both chaptered and become effective on or before January 1, 1981, and Assembly Bill 1893 is chaptered before this bill and amends Section 830.4, Section 12.5 of this act shall become operative on the effective date of Assembly Bill 1893.

SEC. 38.7. It is the intent of the Legislature, if this bill and Assembly Bill 3217 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 830.6 of the Penal Code, and this bill is chaptered after Assembly Bill 3217, that Section 830.6 of the Penal Code, as amended by Section 15 of this act, shall remain operative until the effective date of Assembly Bill 3217, and that on the effective date of Assembly Bill 3217, Section 830.6 of the Penal Code, as amended by Section 15 of this act, be further amended in the form set forth in Section 15.5 of this act to incorporate the changes in Section 830.6 proposed by Assembly Bill 3217. Therefore, if this bill and Assembly Bill 3217 are both chaptered and become effective on or before January 1, 1981, and Assembly Bill 3217 is chaptered before this bill and amends Section 830.6, Section 15.5 of this act shall become operative on the effective date of Assembly Bill 3217.

SEC. 38.8. It is the intent of the Legislature, if this bill and Senate Bill 1676 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 1808.4 of the Vehicle Code, and this bill is chaptered after Senate Bill 1676, that Section 1808.4 of the Vehicle Code, as amended by Section 29 of this act, shall remain operative until the effective date of Senate Bill 1676, and that on the effective date of Senate Bill 1676, Section 1808.4 of the Vehicle Code, as amended by Section 29 of this act, be further amended in the form set forth in Section 29.5 of this act to incorporate the changes in Section 1808.4 proposed by Senate Bill 1676. Therefore, if this bill and Senate Bill 1676 are both chaptered and become effective on or before January 1, 1981, and Senate Bill 1676 is chaptered before this bill and amends Section 1808.4, Section 29.5 of this act shall become operative on the effective date of Senate Bill 1676.

SEC. 38.9. It is the intent of the Legislature, if this bill and Senate Bill 1896 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 22702 of the Vehicle Code, and this bill is chaptered after Senate Bill 1896, that Section 22702 of the Vehicle Code, as amended by Section 38 of this act, shall remain operative until the effective date of Senate Bill 1896, and that on the effective date of Senate Bill 1896, Section 22702 of the Vehicle Code, as amended by Section 38 of this act, be further amended in the form set forth in Section 38.2 of this act to incorporate the changes in Section 22702 proposed by Senate Bill 1896. Therefore, if this bill and Senate Bill 1896 are both chaptered and become effective on or before January 1, 1981, and Senate Bill 1896 is chaptered before this

bill and amends Section 22702, Section 38.2 of this act shall become operative on the effective date of Senate Bill 1896.

SEC. 39. It is the intent of the Legislature that the changes effected by this act shall serve only to define peace officers, the extent of their jurisdiction, and the nature and scope of their authority, powers, and duties; and that there shall be no change in the status of individuals for purposes of retirement, workers' compensation or similar injury or death benefits, or other employee benefits.

SEC. 40. The sum of three million five hundred thousand dollars (\$3,500,000) is hereby appropriated from the Peace Officer's Training Fund to the Commission on Peace Officer Standards and Training in augmentation of Item 456 of the Budget Act of 1980 (Ch. 510, Stats. 1980) for allocation to cities, counties, cities and counties, or districts, for the purpose of reimbursing such jurisdictions for peace officer training.

SEC. 41. This act is an urgency statute necessary for the immediate 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:

Federal law requires that sworn peace officers be available at boarding stations in federally regulated airports throughout the State of California. In order to comply with this federal mandate, peace officer classifications must be created which will permit local governments to employ properly authorized personnel. In addition, state law mandates the responsibility of enforcing certain laws to state employees who are not currently authorized as peace officers to investigate such offenses. This bill would so authorize them.

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## CHAPTER 1341

An act to amend Sections 4555, 4700 and 4701 of, to add Section 196 to, and to repeal Section 196 of, the Civil Code, relating to family law.

[Approved by Governor September 30, 1980 Filed with  
Secretary of State September 30, 1980.]

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

SECTION 1. Section 196 of the Civil Code is repealed.

SEC. 2. Section 196 is added to the Civil Code, to read:

196. The father and mother of a child have an equal responsibility to support and educate their child in the manner suitable to the child's circumstances, taking into consideration the respective earnings or earning capacities of the parents.

SEC. 3. 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 the 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 made pursuant to Section 4453 as to all matters except the status of the marriage, upon proof that the parties did not meet the requirements of Section 4550 at the time the petition was filed.

SEC. 4. Section 4700 of the Civil Code is amended to read:

4700. (a) In any proceeding where there is at issue the support of a minor child, the court may order either or both parents to pay any amount necessary for the support, maintenance, and education of the child. At the request of either party, the court shall make appropriate findings with respect to the circumstances on which the order for the support of a minor child is based. Upon a showing of good cause, the court may order the parent or parents required to make the payment of support to give reasonable security therefor. All payments of support shall be made by the person owing the support payment prior to the payment of any debts owing to creditors. Any order for child support 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. The order of modification or revocation may be made retroactive to the date of the filing of the notice of motion or order to show cause to modify or revoke, or to any date subsequent thereto. The order of modification or revocation may include an award of attorney fees and court costs to the prevailing party.

(b) When a court orders a person to make specified payments for support of a child during the child's minority, or until the child is married or otherwise emancipated, the liability of the person ordered to pay support terminates upon the happening of the contingency. If the custodial parent or other person having physical custody of the child, to whom payments are to be made, fails to notify the person ordered to make such payments, or the attorney of record of the person ordered to pay support, of the happening of the contingency, and continues to accept support payments, the person shall refund any and all moneys received which accrued after the happening of the contingency, except that the 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 custodial parent or other person to whom payments are to be made to notify the person ordered to make the payments, or his or her attorney of record, of the happening of the contingency.

(c) In the event obligations for support of a child are discharged in bankruptcy, the court may make all proper orders for the support, maintenance and education of the child, as the court may deem just.

SEC. 5. Section 4701 of the Civil Code is amended to read:

4701. (a) In any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child,

the court may order either parent or both parents to assign to the county clerk, probation officer, or other officer of the court or county officer designated by the court to receive the payment, that portion of salary or wages of either parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. The order shall operate as an assignment and shall be binding upon any existing or future employer of the defaulting parent upon whom a copy of the order is served. Any such order may be modified or revoked at any time by the court.

(b) (1) Notwithstanding the provisions of subdivision (a), in any proceeding where the court has ordered either or both parents to pay any amount for the support of a minor child, upon a petition signed under penalty of perjury by the person or county officer to whom support has been ordered to have been paid that the parent so ordered is in arrears in payment in a sum equal to the amount of one month of the payment within the 24-month period immediately preceding filing of the petition with the court, the court shall issue without notice to the parent ordered to pay support an order requiring the parent ordered to pay support 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 the payment, that portion of the salary or wages of the parent due or to be due in the future as will be sufficient to pay the amount ordered by the court for the support, maintenance, and education of the minor child. Such an order shall operate as an assignment and shall be binding upon any existing or future employer of the parent ordered to pay support upon whom a copy of the order is served.

The petition shall state the number of previous times a petition for assignment has been filed pursuant to this subdivision and the county in which any such petition was filed.

(2) No petition shall be accepted for filing pursuant to this subdivision unless it contains a declaration stating that the parent, or any other person designated pursuant to subdivision (a), to whom support has been ordered to be paid has given the parent ordered to pay support a written notice of his or her intent to seek a wage assignment in the event of a default in support payments and that the notice was transmitted by certified mail or personally served at least 15 days prior to the date of the filing of the petition. A written notice of intent to seek a wage assignment may be given at the time of the entry of the final decree of dissolution or at any time subsequent thereto. In addition to any other penalty provided by law, the filing of a petition with knowledge of the falsity of the declaration of notice is punishable as a contempt pursuant to Section 1209 of the Code of Civil Procedure. The parent ordered to pay support may at any time waive the written notice required by this subdivision.

(3) The parent to whom support has been ordered to be paid shall notify the court and the employer of the parent ordered to pay

support, by any form of mailing 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 parent to whom support has been ordered to be paid shall notify the court and the county officer, by any form of mail requiring a return receipt, of any address change within a reasonable period of time after any such change. 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.

(4) An assignment order made pursuant to this subdivision shall not become effective until 10 days after service of the order on an employer.

(5) Within 10 days of service of an assignment order issued pursuant to this subdivision on an employer, the employer shall deliver a copy of the assignment order to the parent ordered to pay support.

(6) A parent alleged to be in default may move to quash an assignment order issued under this subdivision within 10 days after service on the parent of notice of the assignment order by his or her employer if the parent states under oath that a default in the amount alleged in the petition has not occurred within the 24-month period referred to in the petition or that the amount is not owed. The motion and notice of motion to quash the assignment order shall be filed with the court issuing the assignment order within 10 days after service on the parent of notice of the order by the employer. The clerk of the court shall set the motion to quash for hearing within not less than 15 days, nor more than 20 days, after receipt of the notice of motion and shall mail to the petitioner at the return address contained in the petition a copy of the notice of motion by first-class mail within five days after receipt of the notice of motion.

(7) The employer shall continue to withhold and forward support as ordered by the court until served with notice that the motion to quash under this subdivision has been granted.

(8) The due date of support payments under this subdivision shall be the date specifically stated in the order of support or if no date is stated in the support order, then it shall be the last day of the month in which the support payment is to be paid.

(9) For purposes of this subdivision, arrearages of payment shall be computed on the basis of the payments owed and unpaid on the date that the parent ordered to pay support has been given notice of the order of assignment and the fact that the parent ordered to pay support may have subsequently paid such arrearages shall not relieve the court of its duty under this subdivision to order the assignment.

(10) Upon petition by the parent ordered to pay support, the court shall terminate an order of assignment entered pursuant to this subdivision upon proof of full payment pursuant to the wage assignment for the appropriate period of time, as follows:

(A) An assignment pursuant to this subdivision pursuant to an initial petition shall continue until support payments are current.

(B) An assignment under this subdivision pursuant to a second petition filed within 24 months shall continue for 12 months.

(C) An assignment under this subdivision pursuant to a third or subsequent petition filed within 48 months shall continue for 18 months.

Upon petition by the parent ordered to pay support the court shall terminate an order of assignment entered pursuant to this subdivision if 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 support has been ordered to be paid to notify the employer or county officer of a change of address.

(c) The Judicial Council shall prescribe forms for the orders for wage assignment required or authorized by this section. The employer may deduct from the salary or wages of the employee 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.

(d) The employer shall cooperate with and provide relevant employment information to the district attorney for the purpose of enforcing the child support obligation.

(e) No employer shall use any assignment authorized by this section as grounds for the dismissal of such employee.

(f) 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.

(g) On declaration or affidavit of the parent to whom support has been ordered to be paid to the court that: (1) the parent ordered to make support payments is in default in such payment in the amount specified in subdivision (b), and (2) the whereabouts of such defaulting parent or the identity of his employer are unknown to the parent to whom 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 parent and the name and address of the absent parent's last known employer. The court shall then order the defaulting parent to make support payments pursuant to subdivision (b).

(h) Nothing in this section shall limit the authority of the district attorney to utilize any and all civil and criminal remedies to enforce child support obligations regardless of whether or not the custodial

parent receives welfare moneys.

(i) Notwithstanding any other provision of law, the provisions of this section shall be applicable to any of the following:

(1) All money payable to 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.

(2) All money held, controlled, or in process of distribution by the state, or a city, city and county, county, or other political subdivision of the state, or any public trust or public corporation, or the governing body of any of them, or by any public board or boards, derived from the contributions by the state or such city, county, city and county, or other political subdivision, or such public trust, public corporation, governing body, or public board or boards, or by any officer or employee thereof, for retirement or pension purposes or the payment of disability, death, or other benefits, and all rights and benefits accrued or accruing to any person under any system established pursuant to statute by the state, city, city and county, county, or other political subdivision of the state, or any public trust or public corporation for retirement, annuity, or pension purposes or payment of disability or death benefits, and all vacation credits accumulated by a state employee pursuant to the provisions of Section 18050 of the Government Code, or any other public employee pursuant to any law for the accumulation of vacation credits applicable to such employee where money, a benefit, or vacation credit has become payable under such program; provided, however, the paying authority may deduct a sum reflecting the actual cost of administration of the court-ordered child or spousal support payment up to one dollar (\$1) for each payment made pursuant to court order.

This subdivision shall not apply to any money held, controlled, or in process of distribution by any such entity pursuant to the statutory provisions of the Unemployment Insurance Code, or of Division 4 (commencing with Section 3201) or Division 4.5 (commencing with Section 6100) of the Labor Code pertaining to workers' compensation and insurance.

(j) Notwithstanding any other provision of law, when a certified copy of any order of assignment is served on any public entity described in subdivision (i), 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 4702. Such moneys shall be subject to any procedure available to enforce an order for child support, but if no enforcement procedure is commenced after 30 days have elapsed from the date the notice of receipt is sent, the clerk shall, upon request, release the moneys to the defaulting parent. A court shall not directly or indirectly condition the issuance, modification, or termination of, or condition the terms or conditions of, any order for the support of a minor child upon the issuance of such a request by such an employee.

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## CHAPTER 1342

An act to add Sections 33678 and 33679 to the Health and Safety Code, relating to fiscal affairs, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 29, 1980 Filed with  
Secretary of State September 30, 1980 ]

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

SECTION 1. Section 33678 is added to the Health and Safety Code, to read:

33678. (a) This section implements and fulfills the intent of this article and of Article XIII B and Section 16 of Article XVI of the California Constitution. The allocation and payment to an agency of the portion of taxes specified in subdivision (b) of Section 33670 for the purpose of paying principal of, or interest on, loans, advances, or indebtedness incurred for redevelopment activity, as defined in subdivision (b) of this section, shall not be deemed the receipt by an agency of proceeds of taxes levied by or on behalf of the agency within the meaning or for the purposes of Article XIII B of the California Constitution, nor shall such portion of taxes be deemed receipt of proceeds of taxes by, or an appropriation subject to limitation of, any other public body within the meaning or for purposes of Article XIII B of the California Constitution or any statutory provision enacted in implementation of Article XIII B. The allocation and payment to an agency of such portion of taxes shall not be deemed the appropriation by a redevelopment agency of proceeds of taxes levied by or on behalf of a redevelopment agency within the meaning or for purposes of Article XIII B of the California Constitution.

(b) As used in this section, "redevelopment activity" means redevelopment meeting all of the following criteria:

- (1) Is redevelopment as prescribed in Sections 33020 and 33021.
- (2) Primarily benefits the project area.
- (3) None of the funds are used for the purpose of paying for

employee or contractual services of any local governmental agency unless such services are directly related to the purpose of Sections 33020 and 33021 and the powers established in this part.

Should any law hereafter enacted, without a vote of the electorate, confer taxing power upon an agency, the exercise of such power by the agency in any fiscal year shall be deemed a transfer of financial responsibility from the community to the agency for such fiscal year within the meaning of subdivision (a) of Section 3 of Article XIII B of the California Constitution.

SEC. 2. Section 33679 is added to the Health and Safety Code, to read:

33679. Before an agency commits to use the portion of taxes to be allocated and paid to an agency pursuant to subdivision (b) of Section 33670 for the purpose of paying all or part of the value of the land for, and the cost of the installation and construction of, any publicly owned building, other than parking facilities, the legislative body shall hold a public hearing.

Notice of the time and place of the public hearing shall be published in a newspaper of general circulation in the community for at least two successive weeks prior to the public hearing. There shall be available for public inspection and copying, at a cost not to exceed the cost of duplication, a summary which includes all of the following:

(a) Estimates of the amount of such taxes proposed to be used to pay for such land and construction of any publicly owned building, including interest payments.

(b) Sets forth the facts supporting the determinations required to be made by the legislative body pursuant to Section 33445.

(c) Sets forth the redevelopment purpose for which such taxes are being used to pay for the land and construction of such publicly owned building.

The summary shall be made available to the public for inspection and copying no later than the time of the first publication of the notice of the public hearing.

SEC. 3. The provisions of this act are so related to one another and are part of an inseparable declaration and implementation of the interrelationship of Article XIII B and Section 16 of Article XVI of the California Constitution, that it is the intent of the Legislature that, if any part of this act is declared invalid, the entire act is invalid, provided that this section shall not affect the validity or repayment of any loans, advances, or indebtedness entered into prior to a final judicial determination of the validity of any part 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 such necessity are:

The urgency is the necessity to clarify the status of tax allocation financing in light of the adoption of Article XIII B to the California Constitution so that the redevelopment process can continue and tax allocation financing can remain a source of agency funding for future

redevelopment activities. Following adoption of Article XIII B of the California Constitution the repayment of millions of dollars of tax allocation obligations incurred by redevelopment agencies has become clouded by uncertainty, and ratings of a large number of issues of tax allocation bonds issued by redevelopment agencies have been suspended. The tax allocation financing of future redevelopment and the issuance of new tax allocation indebtedness remains clouded with uncertainty. The Legislature determines and declares that redevelopment agencies have no taxing powers, and that the receipt by redevelopment agencies of taxes allocated pursuant to Article XVI, Section 16, of the California Constitution, for the purposes contemplated by the voters in adoption of the provision and as set forth and declared in this act, and Article 6 (commencing with Section 33670) of Chapter 6 of Part 1 of Division 24 of the Health and Safety Code, does not constitute the receipt of taxes by or the payment of the proceeds of taxes to redevelopment agencies or any other public body within the meaning of or for the purposes of Article XIII B of the California Constitution. In order that the process of redevelopment in California may continue without further uncertainty or delay, it is necessary, in the interest of public health, safety and welfare, that this act take effect immediately.

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#### CHAPTER 1343

An act to amend Section 31009 of the Government Code, relating to the County Employees Retirement Law of 1937.

[Approved by Governor September 30, 1980. Filed with  
Secretary of State September 30, 1980 ]

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

**SECTION 1.** Section 31009 of the Government Code is amended to read:

**31009.** Prior to January 1, 1981, an applicant for employment who does not meet the physical standards established for his employment because of a physical impairment existing on the date of his employment may be required by the county as a condition to such employment to execute a waiver of any and all rights to a disability retirement under the County Employees Retirement Law of 1937 arising as a result of such impairment or any aggravation thereof while in county service. The county shall provide the applicant with written notice of the rights and benefits which such applicant is being required to waive. The applicant shall give written acknowledgement of the receipt of such notice.

No earlier than two years after employment an employee who has waived rights pursuant to this section may apply to the retirement board to review such waiver to determine if it shall remain in force.

The employee shall submit a physician's report concerning the condition for which such a waiver was required with such request for review. The retirement board may require, at county expense, an examination of such employee by a physician of such board's choosing. The retirement board, following a hearing, may release such employee from all or part of a waiver given pursuant to this section. An employee may not require such a review more often than every two years, although such board in its sole discretion may allow a review at more frequent intervals.

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## CHAPTER 1344

An act to amend Sections 13411, as added by Assembly Bill No. 2779, and 20735 of the Business and Professions Code, relating to the sale of gasoline, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1980 Filed with  
Secretary of State September 30, 1980.]

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

SECTION 1. Section 13411 of the Business and Professions Code, as added by Assembly Bill No. 2779 of the 1979-80 Regular Session, is amended 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 full service car wash facility may sell or offer to sell petroleum products for use in a vehicle on the condition that the purchaser also must purchase car wash services, provided that all of the following conditions are met:

(1) The full service car wash facility, during the base period, as a normal business practice sold gasoline or other motor fuels only to customers who purchased car wash services.

(2) The retail price for car wash services charged by the facility during any given month does not exceed the retail price for car wash 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 car wash 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 full service car wash facility sells or offers to sell in conjunction with the car wash services not less than ten gallons of gasoline with each purchase of such car wash services.

(4) The full service car wash facility when conditioning the sale of gasoline upon the purchase of car wash 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 car wash 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 full service car wash facility subject to this section. Once the operator of a full service car wash 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 full service car wash 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) "Full service car wash facility" means a facility which, during the base period, sold or offered to sell full service car wash services and the service of waxing the exterior of a vehicle by hand and at the same time and location sold or offered to sell gasoline.

(3) "Full service car wash services" means the cleaning of the exterior of a vehicle, by means of mechanical devices or mechanical devices and individuals, the drying of the exterior of a vehicle, and the cleaning, including vacuuming, 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 full service car wash facility or his or her employees or agents, the person who operates the full service car wash 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 full service car wash 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 full service car wash 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 subdivisions (b) to (e), inclusive, 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. 2. Section 20735 of the Business and Professions Code is amended to read:

20735. (a) Except as specified in subdivision (b), it shall be 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 full service car wash facility may sell or offer to sell petroleum products for use in a vehicle on the condition that the purchaser also must purchase car wash services, provided that all of the following conditions are met:

(1) The full service car wash facility, during the base period, as a normal business practice sold gasoline or other motor fuels only to customers who purchased car wash services.

(2) The retail price for car wash services charged by the facility during any given month does not exceed the retail price for car wash 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 car wash 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 full service car wash facility sells or offers to sell in conjunction with the car wash services not less than ten gallons of gasoline with each purchase of such car wash services.

(4) The full service car wash facility when conditioning the sale of gasoline upon the purchase of car wash 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 car wash 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 full service car wash facility subject to this section. Once the operator of a full service car wash 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 full service car wash 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) "Full service car wash facility" means a facility which, during the base period, sold or offered to sell full service car wash services and the service of waxing the exterior of a vehicle by hand and at the same time and location sold or offered to sell gasoline.

(3) "Full service car wash services" means the cleaning of the exterior of a vehicle, by means of mechanical devices or mechanical devices and individuals, the drying of the exterior of a vehicle, and the cleaning, including vacuuming, 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 full service car wash facility or his or her employees or agents, the person who operates the full service car wash 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 full service car wash 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 full service car wash 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 20950, the district attorney of each county shall enforce the provisions of this section.

(g) The provisions of subdivisions (b) to (e), inclusive, 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. 3. It is the intent of the Legislature, if this act and Assembly Bill No. 2779 are both chaptered and become effective on or before January 1, 1981, and this act is chaptered after Assembly Bill No. 2779, that Section 2 of this act shall remain operative until January 1, 1981, at which time it shall be repealed and Section 1 of this act shall become operative.

SEC. 4. It is not the intent of the Legislature in the amendment of Sections 13411 and 20735 of the Business and Professions Code by this act 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.

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:

This act is intended to clarify the law regarding the conditioning of the sale of gasoline upon the purchase of a car wash by a car wash facility and to prevent undue hardship with respect to such car wash facilities.

In order that this may be accomplished at the earliest possible time, it is necessary that this act take immediate effect.

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## CHAPTER 1345

An act to add and repeal Chapter 8 (commencing with Section 9600) to Division 8.5 of the Welfare and Institutions Code, relating to senior citizens, and making an appropriation therefor.

[Approved by Governor September 30, 1980. Filed with  
Secretary of State September 30, 1980 ]

I am reducing the appropriation contained in Section 3 of Assembly Bill No. 2895 from \$800,000 to \$745,000. Since only \$1 million is available for innovative nutrition programs and we have already spent \$255,000, this reduction is necessary to prevent an over appropriation.

EDMUND G. BROWN JR., Governor

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

SECTION 1. The Legislature finds and declares, that although 27 percent of California's 3.1 million citizens over the age of 60 are at or below the poverty level (four thousand two hundred fifty dollars (\$4,250) or less for one person per year), millions of dollars of perfectly edible fruits and vegetables go unpicked or unpacked. The paradox is that as agriculture and food processing become more mechanized, farm labor more costly, and the whole economic equation more complex, many elderly and poor people living on fixed incomes rarely get to taste fresh produce because after it is harvested and passed through the middleman, its price in the market is beyond their reach.

In several California counties, older people have organized with farmers to salvage what is left after the human or mechanical pickers and sorters are through and distribute this produce and other unsold foodstuffs to the elderly. Farmers benefit in some instances with personal and corporate tax deductions. For older people, there are intangible benefits such as a sense of purpose, a sense of worth, an opportunity to work, and the satisfaction of helping people.

Since existing "Brown Bag" programs are threatened by extinction because of piecemeal, unsteady funding, this measure establishes the statewide Brown Bag Network Act. The purpose of this act is to fund the most cost-effective senior citizen nutrition program possible; one that depends on seniors to organize and operate. It is intended that

volunteers shall collect, sort, and distribute grocery sacks of fresh fruit, vegetables, and canned and frozen foods as well. Foods donated in Brown Bag programs cannot be sold.

SEC. 2. Chapter 8 (commencing with Section 9600) is added to Division 8.5 of the Welfare and Institutions Code, to read:

#### CHAPTER 8. BROWN BAG NETWORK ACT

9600. In determining how state funds are to be allocated, the Department of Aging shall give first priority to existing Brown Bag programs that are not being sufficiently funded. "Sufficiently funded" means possessing adequate funds for the lease of needed equipment, warehouses, trucks, freezer space, and salaries for the paid staff to coordinate volunteers and provide for a timely, business-like response to donors and for distribution of foods.

Existing programs which meet criteria established by the Department of Aging shall also receive state money for the establishment of a statewide Brown Bag network the purpose of which will be to strengthen existing programs and establish new ones. The Brown Bag network shall receive fiscal support so that the distribution of existing resources can be more efficient and also aid in the establishment of new Brown Bag programs.

New Brown Bag programs shall be selected on the basis of counties with agricultural resources, access to agricultural resources, and large senior populations. A local cash or in-kind match of at least 25 percent of the Brown Bag Program's budget shall be demonstrated before any program shall receive state subsidies. Sources from which the local match may be derived include, but are not limited to, city, county and federal funds, membership dues, and private or business donations. Priority shall be given to those local programs with a larger local match. For both existing and new programs, state money shall be a catalyst for charitable contributions, including in-kind and local community support. State moneys shall not be used to replace other sources of fiscal and volunteer support unless absolutely necessary.

Each of the Brown Bag projects shall receive no more than one hundred thousand dollars (\$100,000) per year for three years.

9601. The Department of Aging shall establish policies to implement the provisions of this act.

9602. The Department of Aging shall:

(a) Select sponsors for the Brown Bag programs. The sponsors shall be either an existing or new fiscally responsible and viable public or private nonprofit corporation.

(b) Contract with the sponsor of the Brown Bag program.

(c) Perform an annual audit of the Brown Bag programs. An outside consultant may be employed to perform such functions. The Joint Legislative Audit Committee shall select one accounting and one bookkeeping system in order to make auditing less costly to the state.

(d) Advance funds for a fiscal quarter one month prior to the beginning of the quarter.

9603. Each Brown Bag program is to be run by a board of directors, with at least one senior citizen as a representative, and other interested persons from the community including farmers and packers. The staff needed for a program where the senior population of the county or counties being served is at least 20,000 should consist of as many seniors as possible, including part-time workers.

The annual budgets of Brown Bag programs should include the lease of warehouse space with refrigeration and freezer space.

The Brown Bag program shall distribute produce and unsold foodstuffs to low-income elderly persons.

9604. In order to promote efficient communication and to maximize the development of sound policy among the Brown Bag programs and with the state, there shall be created a Brown Bag Advisory Committee. The members of the committee shall be chosen by the Chairperson of the State Commission on Aging. The advisory committee shall be composed of:

- (a) A representative from each of the Brown Bag programs.
- (b) An older person who is a low-income consumer.
- (c) The Director of the Department of Aging, or his or her designee.
- (d) The Chairperson of the Commission on Aging or his or her designee.
- (e) The Director of the Department of Food and Agriculture or his or her designee.

The chairperson of the advisory committee shall be elected by the members.

As new Brown Bag programs are selected for funding under this act, the Chairperson of the Commission on Aging shall choose a representative of each program to serve as a member of the advisory committee.

The committee shall meet on a quarterly basis or upon the call of the chair. Committee members shall be reimbursed for necessary and actual expenses incurred in conjunction with their membership. Funding for reimbursement shall be derived from the appropriation for this act.

9605. The committee's functions shall include:

- (a) Provision of information to the Department of Aging regarding the Brown Bag programs.
- (b) Giving advice to the Department of Aging on planning and policy decisions mandated by this act.
- (c) Assisting in the decision of where new Brown Bag programs will be established.
- (d) Provision of information to the Legislative Analyst for his report to the Legislature pursuant to Section 9607.

9606. Food distributed to seniors shall comply with county health regulations. Except for any injury resulting from gross negligence or willful act, no county or agency of a county established pursuant to

this chapter and no person who donates any agricultural product shall be liable for any injury, including, but not limited to, injury resulting from the ingesting of such agricultural product, as a result of any act, or the omission of any act, in connection with donating any product pursuant to this chapter.

9607. The Legislative Analyst shall report to the Legislature without reimbursement from the state by December 31, 1982, upon the efficiency of the Brown Bag programs and shall make recommendations at that time whether the program should become a budget item of the Department of Aging. Evaluation criteria shall include, but not be limited to: (1) The approximate number of pounds of food distributed per person; (2) the number of people served; and (3) the number of volunteer hours provided.

9608. The Department of Aging shall expend no more than 7½ percent of the funds appropriated for administrative costs of implementing the act.

9609. This chapter shall only remain in effect until December 31, 1983, 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. The sum of eight hundred thousand dollars (\$800,000) is hereby appropriated from the Nutrition Reserve Fund, for three years to the Department of Aging in order to implement the provisions of this act.

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## CHAPTER 1346

An act to add Sections 17052.2 and 23604 to the Revenue and Taxation Code, relating to taxation, to take effect immediately, tax levy.

[Approved by Governor September 30, 1980. Filed with  
Secretary of State September 30, 1980.]

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

SECTION 1. Section 17052.2 is added to the Revenue and Taxation Code, to read:

17052.2. (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 paragraphs (2) and (3).

(2) Except as provided in paragraph (3), the amount of the credit allowed by this section shall be 20 percent of the cost incurred by the taxpayer of any pollution abatement equipment on premises in California which are owned by the taxpayer at the time of installation and which is installed as a result of the requirements of the Federal Water Pollution Control Act of 1972. The amount of costs to which such credit may be applied shall not exceed eighty thousand dollars

(\$80,000). The owner of the premises on which the pollution abatement equipment is installed may claim the tax credit for costs incurred. In order to qualify for the tax credit the taxpayer must be a metal finisher who has employed 100 or less employees and has not been a subsidiary, division, or affiliate of an entity engaged in other unrelated operations during the taxable year.

This credit shall be claimed in four equal annual installments commencing with the state income tax return for the taxable year in which the pollution abatement equipment was installed and for three succeeding taxable years.

(3) The basis amount of any pollution abatement equipment eligible for the credit provided under this section shall be reduced by any grant provided by a public entity for such system.

(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 pollution abatement equipment 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. The basis adjustment shall be made for the taxable year for which the credit is allowed.

(d) With the exception of a husband and wife, if there is more than one owner of a premises on which pollution abatement equipment is installed, each owner shall be eligible to receive the tax credit in proportion to his or her ownership interests in the premises. 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) The tax credit provided by this section shall not apply to trusts or estates subject to tax under this part.

(f) 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 excess income tax withheld), Section 17053.5 (relating to the renters' credit).

(3) "Owner" includes a duly recorded holder of legal title, a lessee with at least three years remaining on his or her lease, a person purchasing premises under a contract of sale, or a person who holds shares or membership in a cooperative housing corporation, which holding is a requisite to the exclusive right of occupancy to the premises.

(4) "Premises" means land or buildings.

(5) "Pollution abatement equipment" means new identifiable equipment which is used in connection with a plant or other property to abate or control water pollution or contamination by removing, altering, disposing, storing, or preventing the creation or admission of pollutants, contaminants, wastes, or heat, and which does not significantly:

(A) Increase the output or capacity, extend the useful life, or reduce the total operating costs of such plant or other property (or any unit thereof), or

(B) Alter the nature of the manufacturing or production process or facility.

SEC. 2. Section 23604 is added to the Revenue and Taxation Code, to read:

23604. (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 20 percent of the cost (including installation charges but excluding interest charges) incurred by the taxpayer of any pollution abatement equipment on premises in California which are owned by the taxpayer at the time of installation and which is installed as a result of the requirements of the Federal Water Pollution Control Act of 1972. The amount of costs to which such credit may be applied shall not exceed eighty thousand dollars (\$80,000). The owner of the premises on which the pollution abatement equipment is installed may claim the tax credit for costs incurred. In order to qualify for the tax credit the taxpayer must be a metal finisher who has employed 100 or less employees and has not been a subsidiary, division, or affiliate of an entity engaged in other unrelated operations during the taxable year.

The pollution abatement equipment credit shall be claimed in four equal annual installments commencing with the state franchise or income tax return for the income year in which the pollution abatement equipment was installed and for three succeeding income years.

(3) The basis amount of any pollution abatement equipment eligible for the credit provided under this section shall be reduced by any grant provided by a public entity for such system.

(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 pollution abatement equipment 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. The basis adjustment shall be made for the taxable year for which the credit is allowed.

(d) The following definitions govern construction of this section:

(1) "Installed" means placed in position in a functionally operative state.

(2) "Owner" includes a duly recorded holder of legal title, a lessee with at least three years remaining on his or her lease, a person purchasing premises under a contract of sale, or a person who holds shares or membership in a cooperative housing corporation, which holding is a requisite to the exclusive right of occupancy to the premises.

(3) "Premises" means land or buildings.

(4) "Pollution abatement equipment" means new identifiable equipment which is used in connection with a plant or other property to abate or control water pollution or contamination by removing, altering, disposing, storing, or preventing the creation or admission of pollutants, contaminants, wastes, or heat, and which does not significantly:

(A) Increase the output or capacity, extend the useful life, or reduce the total operating costs of such plant or other property (or any unit thereof), or

(B) Alter the nature of the manufacturing or production process or facility.

SEC. 3. On or before May 10, 1981, 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. 4. 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, 1981, 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. 5. If Section 4 of this act does not become operative, the sums which would otherwise be required to be transferred pursuant to Section 4 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 1980-81 fiscal year pursuant to subdivision (e) (the Capital Outlay Fund for Public Higher Education) of Section 6217, and after allocations made for the 1980-81 fiscal year pursuant to subdivisions (a) to (d), inclusive, of Section 6217 of the Public Resources Code.

SEC. 6. 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, 1982, and on or before each May 15 thereafter.

SEC. 7. 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 be applied in the computation of taxes for taxable years and income years beginning on or after the first day of January 1980.

## CHAPTER 1347

An act to amend Section 49062 of, and to add Section 49452.5 to, the Education Code, relating to pupil health, and making an appropriation therefor.

[Approved by Governor September 30, 1980 Filed with  
Secretary of State September 30, 1980.]

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

SECTION 1. Section 49062 of the Education Code is amended to read:

49062. School districts shall establish, maintain, and destroy pupil records according to regulations adopted by the State Board of Education. Pupil records shall include a pupil's health record. Such regulations shall establish state policy as to what items of information shall be placed into pupil records and what information is appropriate to be compiled by individual school officers or employees under the exception to pupil records provided in subdivision (b) of Section 49061. No pupil records shall be destroyed except pursuant to such regulations or as provided in subdivisions (b) and (c) of Section 49070.

SEC. 2. Section 49452.5 is added to the Education Code, to read:

49452.5. The governing board of any school district shall, subject to Section 49451 and in addition to the physical examinations required pursuant to Sections 208,321, and 323.7 of the Health and Safety Code, provide for the screening of every female pupil in grade 7 and every male pupil in grade 8 for the condition known as scoliosis. The screening shall be in accord with standards established by the Department of Education. The screening shall be supervised only by qualified supervisors of health as specified in Sections 44871 to 44878, inclusive, and Section 49422, or by school nurses employed by the district or the county superintendent of schools, or pursuant to contract with an agency authorized to perform such services by the county superintendent of schools of the county in which the district is located pursuant to Sections 1750 to 1754, inclusive, and Section 49402 of this code, Section 485 of the Health and Safety Code, and guidelines established by the State Board of Education. The screening shall be given only by individuals who supervise, or who are eligible to supervise, the screening, or by certificated employees of the district or of the county superintendent of schools who have received in-service training, pursuant to rules and regulations adopted by the State Board of Education, to qualify them to perform such screenings. It is the intent of the Legislature that such screenings be performed during the regular schoolday and that any staff time devoted to such activities be redirected from other ongoing activities not related to the pupil's health care.

In-service training may be conducted by orthopedic surgeons,

physicians, registered nurses, and physical therapists, who have received specialized training in scoliosis detection.

The governing board of any school district shall provide for the notification of the parent or guardian of any pupil suspected of having scoliosis. The notification shall include an explanation of scoliosis, the significance of treating it at an early age, and the public services available, after diagnosis, for treatment. Referral of the pupil and the pupil's parent or guardian to appropriate community resources shall be made pursuant to Sections 49426 and 49456.

No action of any kind in any court of competent jurisdiction shall lie against any individual, authorized by this section to supervise or give a screening, by virtue of the provisions of this section.

SEC. 2. The sum of three hundred forty-seven thousand four hundred seventy-one dollars (\$347,471) is hereby appropriated from the General Fund to the Controller for allocation and disbursement to local agencies and school districts pursuant to Section 2231 of the Revenue and Taxation Code to reimburse them for costs mandated by the state and incurred by them pursuant to this act, including, but not limited to, screening, recordkeeping, referral, follow up, and administration of the program.

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## CHAPTER 1348

An act to add Section 6359.6 to the Revenue and Taxation Code, relating to taxation, and making an appropriation therefor, to take effect immediately, tax levy.

[Approved by Governor September 30, 1980. Filed with  
Secretary of State September 30, 1980.]

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

SECTION 1. Section 6359.6 is added to the Revenue and Taxation Code, to read:

6359.6. Notwithstanding Section 6359, 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 noncarbonated and noneffervescent bottled water sold in individual containers of one gallon or more in size.

SEC. 2. The sum of nine hundred forty thousand dollars (\$940,000) 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. 3. 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.

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## CHAPTER 1349

An act to amend Sections 62, 64, and 480 of, and to repeal and add Section 408.1 to, the Revenue and Taxation Code, relating to reassessment: changes in ownership of property.

[Approved by Governor September 30, 1980 Filed with  
Secretary of State September 30, 1980.]

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

SECTION 1. Section 62 of the Revenue and Taxation Code is amended to read:

62. Change in ownership shall not include:

(a) Any transfer between coowners which results in a change in the method of holding title to the real property without changing the proportional interests of the coowners, such as a partition of a tenancy in common, or any transfer of title between an individual and a legal entity or between legal entities, such as a cotenancy to a partnership, a partnership to a corporation, a trust to a cotenancy, or an individual to a legal entity, which results solely in a change in the method of holding title and in which the proportional interests of the transferors and transferees, whether represented by stock, partnership interest, or otherwise, remain the same after transfer.

(b) Any transfer for the purpose of perfecting title to the property.

(c) (1) The creation, assignment, termination, or reconveyance of a security interest; or (2) the substitution of a trustee under a security instrument.

(d) Any transfer into a trust for so long as (1) the transferor is the present beneficiary of the trust, or (2) the trust is revocable; or any transfer by a trustee of such a trust described in either clause (1) or (2) back to the trustor; or, any creation or termination of a trust in which the trustor retains the reversion and in which the interest of others does not exceed 12 years duration.

(e) Any transfer by an instrument whose terms reserve to the transferor an estate for years or an estate for life; however, the termination of such an estate for years or estate for life shall constitute a change in ownership, except as provided in subdivision (d) of Section 62 and in Section 63.

(f) The creation or transfer of a joint tenancy interest if the transferor, after such creation or transfer, is one of the joint tenants.

(g) Any transfer of a lessor's interest in taxable real property subject to a lease with a remaining term (including renewal options)

of 35 years or more. For the purpose of this subdivision, for 1979-80 and each year thereafter, it shall be conclusively presumed that all homes eligible for the homeowners' exemption, other than mobilehomes located on rented or leased land and subject to taxation pursuant to Part 13 (commencing with Section 5800), which are on leased land have a renewal option of at least 35 years on the lease of such land, whether or not in fact such renewal option exists in any contract or agreement.

(h) Any purchase, redemption or other transfer of the shares or units of participation of a group trust, pooled fund, common trust fund, or other collective investment fund established by a financial institution.

(i) Any transfer of stock or membership certificate in a housing cooperative which was financed under one mortgage provided such mortgage was insured under Section 213, 221 (d) (3), 221 (d) (4), or 236 of the National Housing Act, as amended, or such housing cooperative was financed or assisted pursuant to Section 514, 515, or 516 of the Housing Act of 1949 or Section 202 of the Housing Act of 1959, or the housing cooperative was financed by a direct loan from the California Housing Finance Agency, and provided that the regulatory and occupancy agreements were approved by the governmental lender or insurer, and provided that the transfer is to the housing cooperative or to a person or family qualifying for purchase by reason of limited income. Any subsequent transfer from the housing cooperative to a person or family not eligible for state or federal assistance in reduction of monthly carrying charges or interest reduction assistance by reason of the income level of such person or family shall constitute a change of ownership.

SEC. 1.5. Section 62 of the Revenue and Taxation Code is amended to read:

62. Change in ownership shall not include:

(a) Any transfer between coowners which results in a change in the method of holding title to the real property without changing the proportional interests of the coowners, such as a partition of a tenancy in common, or any transfer of title between an individual and a legal entity or between legal entities, such as a cotenancy to a partnership, a partnership to a corporation, a trust to a cotenancy, or an individual to a legal entity, which results solely in a change in the method of holding title and in which the proportional interests by the transferors and transferees, whether represented by stock, partnership interest, or otherwise, remain the same after transfer.

(b) Any transfer for the purpose of perfecting title to the property.

(c) (1) The creation, assignment, termination, or reconveyance of a security interest; or (2) the substitution of a trustee under a security instrument.

(d) Any transfer into a trust for so long as (1) the transferor is the present beneficiary of the trust, or (2) the trust is revocable; or any transfer by a trustee of such a trust described in either clause (1) or

(2) back to the trustor; or, any creation or termination of a trust in which the trustor retains the reversion and in which the interest of others does not exceed 12 years duration.

(e) Any transfer by an instrument whose terms reserve to the transferor an estate for years or an estate for life; however, the termination of such an estate for years or estate for life shall constitute a change in ownership, except as provided in subdivision (d) of Section 62 and in Section 63.

(f) The creation or transfer of a joint tenancy interest if the transferor, after such creation or transfer, is one of the joint tenants as provided in subdivision (b) of Section 65.

(g) Any transfer of a lessor's interest in taxable real property subject to a lease with a remaining term (including renewal options) of 35 years or more. For the purpose of this subdivision, for 1979-80 and each year thereafter, it shall be conclusively presumed that all homes eligible for the homeowners' exemption, other than mobilehomes located on rented or leased land and subject to taxation pursuant to Part 13 (commencing with Section 5800), which are on leased land have a renewal option of at least 35 years on the lease of such land, whether or not in fact such renewal option exists in any contract or agreement.

(h) Any purchase, redemption, or other transfer of the shares or units of participation of a group trust, pooled fund, common trust fund, or other collective investment fund established by a financial institution.

(i) Any transfer of stock or membership certificate in a housing cooperative which was financed under one mortgage provided such mortgage was insured under Section 213, 221 (d) (3), 221 (d) (4), or 236 of the National Housing Act, as amended, or such housing cooperative was financed or assisted pursuant to Section 514, 515, or 516 of the Housing Act of 1949 or Section 202 of the Housing Act of 1959, or the housing cooperative was financed by a direct loan from the California Housing Finance Agency, and provided that the regulatory and occupancy agreements were approved by the governmental lender or insurer, and provided that the transfer is to the housing cooperative or to a person or family qualifying for purchase by reason of limited income. Any subsequent transfer from the housing cooperative to a person or family not eligible for state or federal assistance in reduction of monthly carrying charges or interest reduction assistance by reason of the income level of such person or family shall constitute a change of ownership.

(j) Any transfer between coowners in any property which was held by them as coowners for all or part of the period between March 1, 1975, and March 1, 1980, and which was eligible for a homeowner's exemption during the period of the coownership. Any such transferee whose interest was revalued in contravention of the provisions of this subdivision shall obtain a reversal of such revaluation with respect to the 1980-81 assessment year and thereafter, upon application to the county assessor of the county in

which the property is located filed on or before February 28, 1981.

SEC. 2. Section 64 of the Revenue and Taxation Code is amended to read:

64. (a) Except as provided in subdivision (h) of Section 61 and subdivisions (c) and (d) of this section, the purchase or transfer of ownership interests in legal entities, such as corporate stock or partnership interests, shall not be deemed to constitute a transfer of the real property of the legal entity.

(b) Any corporate reorganization, by merger or consolidation, where all of the corporations involved are members of an affiliated group, and which qualifies as a reorganization under Section 368 of the United States Internal Revenue Code and which is accepted as a nontaxable event by similar California statutes or any transfer of real property among members of an affiliated group, shall not be a change of ownership. The taxpayer shall furnish proof, under penalty of perjury, to the assessor that the transfer meets the requirements of this subdivision.

For purposes of this subdivision "affiliated group" means one or more chains of corporations connected through stock ownership with a common parent corporation if:

(1) One hundred percent of the voting stock, exclusive of any share owned by directors, of each of the corporations, except the parent corporation, is owned by one or more of the other corporations; and

(2) The common parent corporation owns, directly, 100 percent of the voting stock, exclusive of any shares owned by directors, of at least one of the other corporations.

(c) When a corporation, partnership, other legal entity or any other person obtains control, as defined in Section 25105, in any corporation, or obtains a majority ownership interest in any partnership or other legal entity through the purchase or transfer of corporate stock, partnership interest, or ownership interests in other legal entities, such purchase or transfer of such stock or other interest shall be a change of ownership of property owned by the corporation, partnership, or other legal entity in which the controlling interest is obtained.

(d) Whenever property is transferred to a legal entity in a transaction excluded from change in ownership by subdivision (a) of Section 62, the persons holding ownership interests in such legal entity immediately after the transfer shall be considered the "original coowners." Whenever shares or other ownership interests representing cumulatively more than 50 percent of the total interests in the entity are transferred by any of the original coowners in one or more transactions, a change in ownership of the real property owned by the legal entity shall have occurred, and the property shall be reappraised by the assessor pursuant to Section 65.

The date of reappraisal shall be the date of the transfer of the ownership interest representing individually or cumulatively more than 50 percent of the interests in the entity.

The persons holding ownership interests in the legal entity immediately following the reappraisal shall be considered the new original coowners.

(e) In order to assist in the determination of whether a change of ownership has occurred under subdivision (c), the Franchise Tax Board shall include a question in substantially the following form on returns for partnerships, banks and corporations (except tax-exempt organizations):

If the corporation (partnership) owns real property in California, was control of the corporation (partnership) transferred or sold during the year?

(See instructions.)

If an entity answers "yes" to the above question, then the Franchise Tax Board will furnish the name and address of such entity to the State Board of Equalization.

SEC. 2.5. Section 408.1 of the Revenue and Taxation Code, as added by Chapter 411 of the Statutes of 1980, is repealed.

SEC. 2.6. Section 408.1 is added to the Revenue and Taxation Code, to read:

408.1. (a) The assessor shall maintain a list of transfers of any interest in property, other than undivided interests, within the county, which have occurred within the preceding two-year period.

(b) The list shall be divided into geographical areas and shall be revised on the 30th day of each calendar quarter to include all such transactions which are recorded as of the preceding quarter.

(c) The list shall contain the following information:

(1) Transferor and transferee, if available;

(2) Assessor's parcel number;

(3) Address of the sales property;

(4) Date of transfer;

(5) Date of recording and recording reference number;

(6) Where it is known by the assessor, the consideration paid for such property; and

(7) Additional information which the assessor in his discretion may wish to add to carry out the purpose and intent of this section. Other than sales information, the assessor shall not include information on the list which relates to the business or business affairs of the owner of the property, information concerning the business carried on upon the subject property, or the income or income stream generated by the property.

(d) The list shall be open to inspection by any person. The assessor may require the payment of a nonrefundable fee equal to an amount which would reimburse local agencies for their actual administrative costs incurred in such inspections or ten dollars (\$10), whichever is the lesser amount.

(e) The provisions of this section shall not apply to any county with a population of under 50,000 people, as determined by the 1970 federal decennial census.

(f) Pursuant to Section 481, the assessor shall not include

information on the list which was furnished in the change in ownership statement by the transferee and is not otherwise public information.

SEC. 3. Section 480 of the Revenue and Taxation Code is amended to read:

480. Whenever any change in ownership of real property or of a mobilehome subject to local property taxation and which is assessed by the county assessor occurs, the transferee shall file a signed change in ownership statement in the county where the real property or mobilehome is located, as provided for in subdivision (b).

(a) The change in ownership statement shall be declared to be true under penalty of perjury and shall give such information relative to the real property or mobilehome acquisition transaction as the board shall prescribe after consultation with the California Assessors' Association. Such information shall include, but not be limited to, a description of the property, the parties to the transaction, the date of acquisition, the amount, if any, of the consideration paid for the property, whether paid in money or otherwise, and the terms of the transaction. The change in ownership statement shall not include any question which is not germane to the assessment function. The statement shall contain a notice that is printed, with the title in at least 14-point boldface type and the body in at least 10-point boldface type, in the following form:

**“Important Notice”**

“The law requires any person acquiring an interest in real property or mobilehome subject to local property taxation and which is assessed by the county assessor to file a change in ownership statement with the county recorder or assessor. The change in ownership statement must be filed within 45 days of the date of recording or, if the transfer is not recorded, within 45 days of the date of the change in ownership. The failure to file a change in ownership statement within 45 days after receipt of a written request by the assessor results in a penalty of one hundred dollars (\$100) or 10 percent of the current year's taxes on the real property or mobilehome, whichever is greater. This penalty will be added to the roll and shall be treated and collected like, and shall be subject to the same penalties for delinquency as, all other taxes on the roll on which it is entered.”

(b) If the document evidencing a change in ownership is recorded in the county recorder's office, then the statement shall be filed either with the recorder at the time of recordation or with the assessor within 45 days from the date of recordation. If the document evidencing a change in ownership is not recorded, then the statement shall be filed with the assessor no later than 45 days from the date the change in ownership occurs.

(c) Whenever a change in ownership statement is filed with the county recorder's office, the recorder shall transmit, as soon as possible, the original statement or a true copy thereof to the assessor along with a copy of every recorded document as required by Section 255.7.

(d) The change in ownership statement may be filed with the assessor through the United States mail, properly addressed with the postage prepaid.

(e) Upon receipt of a change in ownership statement which has either been transmitted by the county recorder's office or been filed directly by the transferee, the assessor shall enter the prior assessment year value and an indication as to whether a change in ownership, as defined in Section 60, has occurred on the statement.

(f) In the case of a corporate transferee of property, the change in ownership statement shall be signed either by an officer of the corporation or an employee or agent who has been designated in writing by the board of directors to sign such statements on behalf of the corporation.

(g) A change in ownership statement shall be filed whenever there is a change in control of any corporation, or a change in the majority ownership of a partnership or other legal entity, as defined in subdivision (c) of Section 64.

(h) In the case of a partnership or other legal entity, the statement shall be signed by an officer, partner, or an employee or agent who has been designated in writing by the partnership or legal entity.

(i) In the case of a change in ownership where the transferee is not locally assessed, no change in ownership statement is required.

Within 45 days of the change in control; the statement shall be filed with the assessor of every county in which the corporation, partnership or other legal entity owns real property, or, at the election of the taxpayer, with the board at its office in Sacramento. If the statement is filed with the board, it shall list all counties in which the corporation, partnership or legal entity owns real property.

If the corporation, partnership, or legal entity fails to file such statement within 45 days of the change in control, a penalty of 10 percent of the current year's taxes shall be added to the assessment made on the current roll after a new base year value reflecting the change in control has been established.

The assessor may inspect any and all records and documents of a corporation, partnership or legal entity to ascertain whether a change in control as defined in Section 64(c) has occurred. The corporation, partnership, or legal entity shall upon request, make such documents available to the assessor during normal business hours.

SEC. 4. Section 480 of the Revenue and Taxation Code is amended to read:

480. Whenever any change in ownership of real property or of a mobilehome subject to local property taxation, and which is assessed

by the county assessor, occurs, the transferee shall file a signed change in ownership statement in the county where the real property or mobilehome is located, as provided for in subdivision (b).

(a) Except as provided in subdivision (b), the change in ownership statement shall be declared to be true under penalty of perjury and shall give such information relative to the real property or mobilehome acquisition transaction as the board shall prescribe after consultation with the California Assessors' Association. Such information shall include, but not be limited to, a description of the property, the parties to the transaction, the date of acquisition, the amount, if any, of the consideration paid for the property, whether paid in money or otherwise, and the terms of the transaction. The change in ownership statement shall not include any question which is not germane to the assessment function. The statement shall contain a notice that is printed, with the title in at least 14-point boldface type and the body in at least 10-point boldface type, in the following form:

**"Important Notice"**

"The law requires any transferee acquiring an interest in real property or mobilehome subject to local property taxation, and which is assessed by the county assessor, to file a change in ownership statement with the county recorder or assessor. The change in ownership statement must be filed at the time of recording or, if the transfer is not recorded, within 45 days of the date of the change in ownership. The failure to file a change in ownership statement within 45 days from the date of a written request by the assessor results in a penalty of one hundred dollars (\$100) or 10 percent of the current year's taxes on the real property or mobilehome, whichever is greater. This penalty will be added to the roll and shall be treated and collected like, and shall be subject to the same penalties for delinquency as, all other taxes on the roll on which it is entered."

(b) The change in ownership statement may be attached to or accompany the deed or other document evidencing a change in ownership filed for recording, in which case such notice, declaration under penalty of perjury, and any information contained in the deed or other transfer document otherwise required by subdivision (a) may be omitted.

(c) If the document evidencing a change in ownership is recorded in the county recorder's office, then the statement shall be filed with the recorder at the time of recordation. However, the recordation of the deed or other document evidencing a change in ownership shall not be denied or delayed because of the failure to file a change of ownership statement, or filing of an incomplete statement, in accordance with this subdivision. If the document evidencing a change in ownership is not recorded or is recorded without the

concurrent filing of a change in ownership statement, then the statement shall be filed with the assessor no later than 45 days from the date the change in ownership occurs.

(d) Whenever a change in ownership statement is filed with the county recorder's office, the recorder shall transmit, as soon as possible, the original statement or a true copy thereof to the assessor along with a copy of every recorded document as required by Section 255.7.

(e) The change in ownership statement may be filed with the assessor through the United States mail, properly addressed with the postage prepaid.

(f) In the case of a corporate transferee of property, the change in ownership statement shall be signed either by an officer of the corporation or an employee or agent who has been designated in writing by the board of directors to sign such statements on behalf of the corporation.

(g) No person or entity acting for or on behalf of the parties to a transfer of real property shall incur liability for the consequences of assistance rendered to the transferee in preparation for any change in ownership statement, and no action may be brought or maintained against any such person or entity as a result of such assistance. Nothing in this section shall create a duty, either directly or by implication, that such assistance be rendered by any person or entity acting for or on behalf of parties to a transfer of real property.

(h) A change in ownership statement shall be filed whenever there is a change in control of any corporation, or a change in the majority ownership of a partnership or other legal entity, as defined in subdivision (c) of Section 64 of this code.

(i) In the case of a partnership or other legal entity, the statement shall be signed by an officer, partner, or an employee or agent who has been designated in writing by the partnership or legal entity.

(j) In the case of a change in ownership where the transferee is not locally assessed, no change in ownership statement is required.

Within 45 days of the change in control; the statement shall be filed with the assessor of every county in which the corporation, partnership or other legal entity owns real property, or, at the election of the taxpayer, with the board at its office in Sacramento. If the statement is filed with the board, it shall list all counties in which the corporation, partnership or legal entity owns real property.

If the corporation, partnership, or legal entity fails to file such statement within 45 days of the change in control, a penalty of 10 percent of the current year's taxes shall be added to the assessment made on the current roll after a new base year value reflecting the change in control has been established.

The assessor may inspect any and all records and documents of a corporation, partnership or legal entity to ascertain whether a change in control as defined in subdivision (c) of Section 64 has occurred. The corporation, partnership, or legal entity shall upon

request, make such documents available to the assessor during normal business hours.

SEC. 5. The amendments made to Sections 62 and 64 of the Revenue and Taxation Code by this act shall be effective for the 1981-82 assessment year and years thereafter. It is the intent of the Legislature that the provisions of this act shall apply to the determination of base year values for the 1981-82 fiscal year, and shall apply to any change in ownership occurring on or after March 1, 1975. No escape assessments shall be levied and no refund shall be made for any years prior to 1981-82 for any increases or decreases in value made for the 1981-82 fiscal year or fiscal years thereafter as the result of the enactment of this act.

SEC. 6. The provisions of subdivision (d) of Section 64 of the Revenue and Taxation Code as added by this act shall be operative with respect to returns for years beginning in 1981 and thereafter.

SEC. 7. It is the intent of the Legislature, if this bill and Senate Bill No. 1260 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 62 of the Revenue and Taxation Code, and this bill is chaptered after Senate Bill No. 1260, that Section 1 shall not become operative and that Section 1.5 shall become operative on the effective date of this act. Therefore, Section 1.5 of this act shall become operative only if this bill and Senate Bill No. 1260 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 62, and this bill is chaptered after Senate Bill No. 1260, in which case Section 1.5 of this act shall become operative on the operative date of this act and Section 1 shall not become operative.

SEC. 8. It is the intent of the Legislature, if this bill and Senate Bill No. 1260 are both chaptered and become effective January 1, 1981, both bills amend Section 480 of the Revenue and Taxation Code, and this bill is chaptered after Senate Bill No. 1260, that Section 480 of the Revenue and Taxation Code, as amended by Section 7 of Senate Bill No. 1260 be further amended on the operative date of this act in the form set forth in Section 4 of this act to incorporate the changes in Section 480 proposed by this bill. Therefore, Section 4 of this act shall become operative only if this bill and Senate Bill No. 1260 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 480, and this bill is chaptered after Senate Bill No. 1260, in which case Section 4 of this act shall become operative on the operative date of this act and Section 3 of this act shall not become operative.

## CHAPTER 1350

An act to amend, add, and repeal Sections 8008, 8015, 8025, and 8031 of, and to add and repeal Sections 8030.2, 8030.4, 8030.6, and 8030.8 to, the Business and Professions Code, and to amend Sections 8211.5 and 69950 of the Government Code, relating to court costs, and making an appropriation therefor.

[Approved by Governor September 30, 1980 Filed with  
Secretary of State September 30, 1980.]

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

SECTION 1. Section 8008 of the Business and Professions Code is amended to read:

8008. The board also has the following powers and duties:

- (a) To adopt a seal.
- (b) By affirmative vote of at least three members of the board, to suspend or revoke a certificate, for any cause specified in this chapter.
- (c) To charge and collect from all applicants for certificates the fees provided for in this chapter.
- (d) To require the renewal of all such certificates and to collect therefor the renewal fee prescribed by this chapter or such lesser amount as may be fixed by the board.
- (e) To issue subpoenas, to administer oaths, and to take testimony concerning any matter within the jurisdiction of the board.
- (f) To administer a fund established from the fees collected pursuant to Section 8031, or from any other donated sources, to reimburse indigent litigants for the cost of preparation of official transcripts of court proceedings and deposition proceedings.
- (g) To submit to the Legislature no later than September 1, 1982, and annually thereafter, a report concerning the past fiscal year's experience with the Transcript Reimbursement Fund. The report shall include, but is not limited to, information which indicates the following:
  - (1) The number of requests for reimbursement.
  - (2) The number of requests granted.
  - (3) The number of requests denied.
  - (4) The total amount of funds disbursed.
  - (5) The amount of any remaining unexpended funds.
  - (6) The anticipated funding level needed to meet all requests in the following fiscal year.
  - (7) The total amount of refunds recovered by judicial award of costs to applicants.
  - (8) The amount of funds received from other sources.

This section shall remain in effect only until June 30, 1986, and as of that date is repealed.

SEC. 2. Section 8008 is added to the Business and Professions

Code, to read:

8008. The board also has the following powers and duties:

(a) To adopt a seal.

(b) By affirmative vote of at least three members of the board, to suspend or revoke a certificate, for any cause specified in this chapter.

(c) To charge and collect from all applicants for certificates the fees provided for in this chapter.

(d) To require the renewal of all such certificates and to collect therefor the renewal fee prescribed by this chapter or such lesser amount as may be fixed by the board.

(e) To issue subpoenas, to administer oaths, and to take testimony concerning any matter within the jurisdiction of the board.

This section shall become operative on June 30, 1986.

SEC. 3. Section 8015 of the Business and Professions Code is amended to read:

8015. This chapter is designed (1) to establish and maintain a standard of competency for those engaged in the practice of shorthand reporting, for the protection of the public, in general, and for the protection of all litigants whose rights to personal freedom and property are affected by the competency of shorthand reporters, in particular, and (2) to extend court and general reporting services to the public otherwise unable to afford such services.

This section shall remain in effect only until June 30, 1986, and as of that date is repealed.

SEC. 4. Section 8015 is added to the Business and Professions Code, to read:

8015. This chapter is designed to establish and maintain a standard of competency for those engaged in the practice of shorthand reporting, for the protection of the public, in general, and for the protection of all litigants whose rights to personal freedom and property are affected by the competency of shorthand reporters, in particular.

This section shall become operative on June 30, 1986.

SEC. 5. Section 8025 of the Business and Professions Code is amended to read:

8025. A certificate issued under this chapter may be suspended or revoked for one or more of the following causes:

(a) Conviction of a crime substantially related to the qualifications, functions and duties of a certified shorthand reporter. The record of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction.

(b) Fraud or misrepresentation resorted to in obtaining a certificate hereunder.

(c) Fraud, dishonesty, corruption, willful violation of duty, gross incompetency in practice, or unprofessional conduct.

(d) Repeated unexcused failure, whether or not willful, to transcribe notes of cases pending on appeal and to file the transcripts thereof within the time required by law or to transcribe or file notes

of other proceedings within the time required by law or agreed by contract.

(e) Failure to pay fees required by this chapter.

This section shall remain in effect only until June 30, 1986, and as of that date is repealed.

SEC. 6. Section 8025 is added to the Business and Professions Code, to read:

8025. A certificate issued under this chapter may be suspended or revoked for one or more of the following causes:

(a) Conviction of a crime substantially related to the qualifications, functions and duties of a certified shorthand reporter. The record of conviction, or a certified copy thereof, shall be conclusive evidence of such conviction.

(b) Fraud or misrepresentation resorted to in obtaining a certificate hereunder.

(c) Fraud, dishonesty, corruption, willful violation of duty, gross incompetency in practice, or unprofessional conduct.

(d) Repeated unexcused failure, whether or not willful, to transcribe notes of cases pending on appeal and to file the transcripts thereof within the time required by law or to transcribe or file notes of other proceedings within the time required by law or agreed by contract.

This section shall become operative on June 30, 1986.

SEC. 7. Section 8030.2 is added to the Business and Professions Code, to read:

8030.2. (a) To provide shorthand reporting services to low-income litigants unable to otherwise afford such services, funds generated by fees received by the board pursuant to Section 8031 in excess of the board's operating budget for two fiscal years shall be used by the board for the purpose of establishing and maintaining a Transcript Reimbursement Fund in an amount no less than three hundred thousand dollars (\$300,000) for each fiscal year beginning with the fiscal year 1981-82.

(b) All moneys held in the Shorthand Reporters' Fund on the effective date of this section in excess of the board's operating budget for the 1979-80 and 1980-81 fiscal years shall be used as provided in subdivision (a).

(c) Unexpended funds that are anticipated to remain in the Transcript Reimbursement Fund at the end of the fiscal year shall be considered by the board in establishing the fee assessment pursuant to Section 8031 so that the assessment shall maintain the Transcript Reimbursement Fund at the appropriate level in the following fiscal year.

(d) The Transcript Reimbursement Fund is hereby created in the State Treasury and is continuously appropriated for the purposes of this chapter.

This section shall remain in effect only until June 30, 1986, and as of that date is repealed.

SEC. 8. Section 8030.4 is added to the Business and Professions

Code, to read:

8030.4. As used in this chapter:

(a) "Qualified legal services project" means a nonprofit project incorporated and operated exclusively in California which provides as its primary purpose and function legal services without charge to indigent persons, has a board of directors or advisory board composed of both attorneys and consumers of legal services, and provides for community participation in legal services programming. Legal services projects funded either in whole or in part by the Legal Services Corporation or with Older Americans Act funds are presumed to be qualified legal services projects for the purposes of this chapter.

(b) "Qualified support center" means an incorporated nonprofit legal services center, having an office or offices in California, which office or offices provide legal services or technical assistance without charge to qualified legal services projects and their clients on a multicounty basis in California. Support centers funded either in whole or in part by the Legal Services Corporation or with Older Americans Act funds are presumed to be qualified legal services projects for the purpose of this chapter.

(c) "Other qualified project" means a nonprofit organization formed for charitable or other public purposes, not receiving funds from the Legal Services Corporation or pursuant to the Older Americans Act, which organization or association provides free legal services to indigent persons.

(d) "Pro bono attorney" means any attorney, law firm, or legal corporation, licensed to practice law in this state, which undertakes without charge to the party the representation of an indigent person, referred by a qualified legal services project, qualified support center, or other qualified project, in a case not considered to be fee generating as defined in this chapter.

(e) "Applicant" means a qualified legal services project, qualified support center, other qualified project, or pro bono attorney applying to receive funds from the Transcript Reimbursement Fund established by this chapter.

(f) "Indigent person" means either a person whose income is 125 percent or less of the current poverty threshold established by the Office of Management and Budget of the United States, a disabled person whose income after meeting medical and other disability-related special expenses is 125 percent or less of that current poverty threshold, or a person who receives or is eligible to receive supplemental security income.

(g) "Fee-generating case" means any case or matter which, if undertaken on behalf of an eligible client by an attorney in private practice, reasonably may be expected to result in payment of a fee for legal services from an award to a client, from public funds, or from an opposing party. A case shall not be considered fee generating if adequate representation is deemed to be unavailable under any of the following:

(1) Where the applicant has determined that referral is not possible because of any of the following:

(A) The case has been rejected by the local lawyer referral service, or if there is no such service, by two private attorneys who have experience in the subject matter of the case.

(B) Neither the referral service nor any lawyer will consider the case without payment of a consultation fee.

(C) The case is of the type that private attorneys in the area ordinarily do not accept, or do not accept without prepayment of a fee.

(D) Emergency circumstances compel immediate action before referral can be made, but the client is advised that, if appropriate and consistent with professional responsibility, referral will be attempted at a later time.

(2) Where recovery of damages is not the principal object of the case and a request for damages is merely ancillary to an action for equitable or other nonpecuniary relief; or inclusion of a counterclaim requesting damages is necessary for effective defense or because of applicable rules governing joinder of counterclaims.

(3) Where a court appoints an applicant or an employee of an applicant pursuant to a statute or a court rule or practice of equal applicability to all attorneys in the jurisdiction.

(4) In any case involving the rights of a claimant under a public supported benefit program for which entitlement to benefit is based on need.

(h) "Legal Services Corporation" means the Legal Services Corporation established under the Legal Services Corporation Act of 1974, Public Law 93-355, as amended.

(i) "Supplemental security income recipient" means an individual receiving or eligible to receive payments under Title XVI of the Social Security Act, or payment under Chapter 3 (commencing with Section 12000) of Part 3 of Division 9 of the Welfare and Institutions Code.

(j) "Lawyer referral service" means a lawyer referral program authorized by the State Bar of California pursuant to the rules of professional conduct.

(k) "Older Americans Act" means the Older Americans Act of 1965, Public Law 89-73, as amended.

(l) "Rules of professional conduct" means those rules adopted by the State Bar pursuant to Sections 6076 and 6077.

(m) "Certified shorthand reporter" means a shorthand reporter certified pursuant to Article 3 (commencing with Section 8020).

This section shall remain in effect only until June 30, 1986, and as of that date is repealed.

SEC. 9. Section 8030.6 is added to the Business and Professions Code, to read:

8030.6. The board shall disburse funds from the Transcript Reimbursement Fund, in accordance with the procedures set forth below, to the certified shorthand reporter designated in the

application for the costs, exclusive of per diem charges, of preparing an original transcript, and one copy thereof, of court or deposition proceedings, or both, incurred as a contractual obligation between the shorthand reporter and the applicant, for litigation conducted in California:

(a) The applicant shall promptly submit to the board the invoice received from the certified shorthand reporter for the original transcript and one copy, together with the appropriate documentation, that the person is indigent and the applicant is qualified under this chapter.

(b) The board shall promptly determine if the applicant is entitled to reimbursement under this chapter.

(c) If entitled, and funds are available, the board shall forthwith disburse the appropriate sum to the certified shorthand reporter together with a notice requiring the certified shorthand reporter to file a notice with the court in which the action is pending advising that such sum has been paid pursuant to this section and that if such sum is subsequently included in any award of costs made in such action that such sum is to be ordered refunded by the applicant to the Transcript Reimbursement Fund whenever the sum is actually recovered as costs. The court shall not consider whether payment has been made from the Transcript Reimbursement Fund in determining the appropriateness of any award of costs to the parties. The board shall also forthwith notify the applicant that such sum has been paid to the certified shorthand reporter and shall likewise notify the applicant of the duty to refund any of such sum actually recovered as costs in the action.

(d) If not entitled, the board shall forthwith return a copy of the invoice to the applicant and the designated certified shorthand reporter together with a notice stating the grounds for denial.

(e) The board shall complete its actions under this subdivision within 30 days of receipt of the invoice and accompanying documentation.

(f) Applications for reimbursements from the fund shall be filled on a first-come basis.

This section shall remain in effect only until June 30, 1986, and as of that date is repealed.

SEC. 10. Section 8030.8 is added to the Business and Professions Code, to read:

8030.8. (a) For purposes of this chapter, documentation accompanying an invoice shall be presumed sufficient to establish entitlement for reimbursement from the Transcript Reimbursement Fund if it establishes any of the following:

(1) The litigant or litigants requesting the reimbursement are indigent persons.

(2) The applicant is qualified under the provisions of this chapter.

(3) The case is not a fee-generating case as defined in Section 8030.4.

(b) In the case of an applicant claiming to be eligible pursuant to

subdivision (a), (b), or (c) of Section 8030.4, a letter from the director of such project or center, certifying that the project or center meets the standards set forth in one of those subdivisions and that the litigant or litigants are indigent persons, shall be sufficient documentation to establish eligibility.

(c) In the case of an applicant claiming to be eligible pursuant to subdivision (d) of Section 8030.4, a letter certifying that the applicant meets the requirements of that subdivision, that the case is not a fee-generating case as defined in subdivision (g) of Section 8030.4, and that the litigant or litigants are indigent persons, together with a letter from the director of a project or center defined in subdivision (a), (b) or (c) of Section 8030.4 certifying that the litigant or litigants had been referred by that project or center to the applicant, shall be sufficient documentation to establish eligibility.

This section shall remain in effect only until June 30, 1986, and as of that date is repealed.

SEC. 11. 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 is twenty-five dollars (\$25).

(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 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued or fifty dollars (\$50), whichever is greater. 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 in such amounts and at such times as the board may deem appropriate to meet its operational expenses and funding responsibilities established by this chapter, at not more than one hundred twenty-five dollars (\$125) nor less than ten dollars (\$10) annually. The renewal fee shall, in addition to the amount fixed by this subdivision, include any unpaid fees required by this section plus any delinquency fee.

(d) The delinquency fee is ten dollars (\$10).

(e) The duplicate certificate fee is five dollars (\$5).

This section shall remain in effect only until June 30, 1986, and as of that date is repealed.

SEC. 12. 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 50 percent of the renewal fee in effect on the last regular renewal date before the date on which the certificate is issued or fifty dollars (\$50), whichever is greater. 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 in such amounts and at such times as the board may deem appropriate to meet its operational expenses and funding responsibilities established by this chapter, at not more than one hundred twenty-five dollars (\$125) nor less than ten dollars (\$10) annually. The renewal fee shall, in addition to the amount fixed by this subdivision, include any unpaid fees required by this section plus any delinquency fee.

(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).

This section shall remain in effect only until June 30, 1986, and as of that date is repealed.

SEC. 13. Section 8031 is added to the Business and Professions Code, 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 50 percent 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).

This section shall become operative on June 30, 1986.

SEC. 14. Section 8031 is added to the Business and Professions Code, 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 is twenty-five dollars (\$25).

(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 ten dollars (\$10).

(e) The duplicate certificate fee is five dollars (\$5).

This section shall become operative on June 30, 1986.

SEC. 15. Section 8211.5 of the Government Code is amended to read:

8211.5. In the event a fee is charged, the fee of a notary public for all services rendered in connection with the taking of any deposition is the sum of five dollars (\$5), and in addition thereto, the sum of one dollar (\$1) for administering the oath to the witness and the sum of one dollar (\$1) for the certificate to such deposition.

SEC. 16. Section 69950 of the Government Code is amended to read:

69950. The fee for transcription for original ribbon copy is sixty cents (\$0.60) for 100 words, and for each copy for the party buying the original made at the same time, ten cents (\$0.10) each for 100 words. The fee for a first copy to any other person shall be twenty cents (\$0.20) for each 100 words, and for each additional copy, made at the same time, ten cents (\$0.10) for each 100 words.

SEC. 17. It is the intent of the Legislature, if this bill and Assembly Bill 2962 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 8031 of the Business and Professions Code, and this bill is chaptered after Assembly Bill 2962, that Section 8031 of the Business and Professions Code, as amended by Section 2 of Assembly Bill 2962, be further amended on the effective date of this act in the form set forth in Section 12 of this act to incorporate the changes in Section 8031 proposed by this bill. Therefore, if this bill and Assembly Bill 2962 are both chaptered and become effective on or before January 1, 1981, and Assembly Bill 2962 is chaptered before this bill and amends Section 8031, Section 12 of this act shall become operative on the effective date of this act and Section 11 of this act shall not become operative.

SEC. 18. It is the intent of the Legislature that Section 13 of this act shall become operative only if this bill and Assembly Bill 2962 are both chaptered, Assembly Bill 2962 amends Section 8031 of the

Business and Professions Code, and this bill is chaptered after Assembly Bill 2962, in which case Section 14 of this act shall not become operative.

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CHAPTER 1351

An act to amend Sections 15432 and 15438.5 of, and to add Section 15454 to, the Government Code, to amend Section 436.8 of the Health and Safety Code, to add Section 6029.1 to the Penal Code, and to add Section 16715 to the Welfare and Institutions Code, relating to county facilities, making an appropriation therefor.

[Approved by Governor September 30, 1980. Filed with Secretary of State September 30, 1980.]

I am reducing the appropriation contained in Section 10 of Assembly Bill No. 3245 from \$140,000,000 to \$50,100,000 by reducing.

- (1) (a) from \$33,333,333 to \$25,000,000
- (b) from \$33,333,333 to \$25,000,000
- (c) from \$33,333,333 to \$0

and reducing

- (2) from \$40,000,000 to \$100,000.

The \$100,000 in (2) will provide funds for planning and I will include funding in next year's budget to address the needs of county jails.

EDMUND G BROWN JR, Governor

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

SECTION 1. The Legislature finds and declares that many county health facilities are old and in need of repair, maintenance, upgrading, or replacement. As a result of the adoption by the voters of Article XIII A of the California Constitution, counties are unable to increase property tax rates for the repayment of new bonded indebtedness, and it has accordingly become infeasible to finance the improvement or construction of county health facilities by this method. Similarly, there are obstacles to revenue bond financing for county health facilities, since such facilities are operated at a loss due to county obligations under Section 17000 of the Welfare and Institutions Code to provide relief and support to resident indigents and others.

The Legislature finds and declares that many county jail facilities are old, outdated, or overcrowded and in need of repair, maintenance, upgrading, or replacement. County jails are faced with fiscal pressures of an unprecedented magnitude as a result of county revenue reductions and increased demands on local correctional facilities. Further, the Board of Corrections establishes minimum standards for county jail facilities which many counties do not now meet.

The Legislature further finds and declares that counties through their health care facilities provide public health services for all county residents, and personal health care services for county

indigents, as well as training of health personnel for the state as a whole. Because of these unique and valuable functions, county health facilities serve a clear public purpose and are entitled to special state consideration.

The Legislature further finds and declares that county jail facilities are an essential component in the total criminal justice system, providing short-term local incarceration and cost saving sentencing alternatives such as work furlough and honor camps for minor offenders who should not be sentenced to state prison. County jail facilities also provide secured detention for individuals awaiting trial who, having been found to be a risk to abscond, are not suitable for release upon bail or their own recognizance. Because of these functions, county jail facilities serve a clear public purpose and should be given special state consideration.

It is, therefore, the intent of the Legislature in enacting this act to assist counties in financing necessary construction and improvement of county health facilities, and to recognize and implement an appropriate means for assuming the state's fair share of fiscal responsibility for the capital expenditures incident to counties fulfilling their public functions, particularly the state's requirements under Section 17000 of the Welfare and Institutions Code.

It is, therefore, the intent of the Legislature in enacting this act to assist counties in financing necessary construction and improvements to county jail facilities.

SEC. 2. 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 cases of county outpatient facilities and 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) Any other type of facility for the provision of inpatient or outpatient care which is a county health facility, as defined in subdivision (a) of Section 16715 of the Welfare and Institutions Code, (without regard to whether funding is provided for the facility under that section).

“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. 2.1. Section 15432 of the Government Code, as amended by Section 1 of Assembly Bill No. 2992, 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 cases of county outpatient facilities and 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.

(8) Any other type of facility for the provision of inpatient or outpatient care which is a county health facility, as defined in subdivision (a) of Section 16715 of the Welfare and Institutions Code, (without regard to whether funding is provided for the facility under that section).

"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. 3. Section 15438.5 of the Government Code is amended to read:

15438.5. (a) It is the intent of the Legislature in enacting this part to provide financing only, and, except as provided in subdivision (b), only to health facilities which can demonstrate the financial feasibility of their projects without regard to the more favorable interest rates anticipated through the issuance of revenue bonds under this part. It is further the intent of the Legislature that all or part of any savings experienced by a participating health institution, as a result of such tax-exempt revenue bond funding, be passed on to the consuming public through lower charges or containment of the rate of increase in hospital rates. It is not the intent of the Legislature in enacting this part to encourage unneeded health facility construction. Further, it is not the intent of the Legislature to authorize the authority to control or participate in the operation of hospitals, except where default occurs or appears likely to occur.

(b) When determining the financial feasibility of projects for county health facilities, the authority shall consider the more favorable interest rates reasonably anticipated through the issuance of revenue bonds under this part. It is the intent of the Legislature that the authority attempt in whatever ways possible to assist counties to arrange projects which will meet the financial feasibility standards developed under this part.

SEC. 3.5. Section 15454 is added to the Government Code, to read:

15454. Notwithstanding Section 15453, bonds issued pursuant to this part shall not be subject to the limitation of, or be considered or included in computing the amount of outstanding bonds for purposes of, Section 15453 if issued to finance any of the following:

(a) A project which is, or is for, a county health facility, as defined in subdivision (a) of Section 16715 of the Welfare and Institutions Code, (without regard to whether funding is provided for the project under that section).

(b) A project which is, or is for, an adult day health center, provided Assembly Bill No. 2992 of the 1979-80 Regular Session is chaptered and becomes effective on or before January 1, 1981.

SEC. 7. Section 436.8 of the Health and Safety Code is amended to read:

436.8. A loan shall be eligible for insurance under this chapter if all of the following conditions are met:

(a) When the borrower is a nonprofit corporation, such loan shall be secured by a mortgage, first lien, trust indenture, or such other

security agreement as the office may require subject only to such conditions, covenants and restrictions, easements, taxes, and assessments of record approved by the office. When the borrower is a political subdivision, such loan may be evidenced by a duly authorized bond issue. A loan to a local hospital district or county may meet the requirement of this subdivision by either method.

(b) The borrower obtains an American Land Title Association title insurance policy with the office designated as beneficiary, with liability equal to the amount of the loan insured under this chapter, and with such additional endorsements as the office may reasonably require.

(c) The proceeds of the loan shall be used exclusively for the construction, improvement, or expansion of the health facility, as approved by the office under Section 436.4. However, loans insured pursuant to this chapter may include loans to refinance another prior loan, whether or not state insured and without regard to the date of the prior loan, if the office determines that the prior loan would have been eligible for insurance under this chapter at the time it was made. The office may not insure a loan for a health facility which is not needed as determined by the state plan developed under the authorization of Section 436.4.

(d) The loan shall have a maturity date not exceeding 30 years from the date of the beginning of amortization of the loan, except as authorized by subdivision (e), or 75 percent of the office's estimate of the economic life of the health facility, whichever is the lesser.

(e) The loan shall contain complete amortization provisions requiring periodic payments by the borrower not in excess of its reasonable ability to pay as determined by the office. The office shall permit a reasonable period of time during which the first payment to amortization may be waived on agreement by the lender and borrower. The office may, however, waive the amortization requirements of this subdivision and of subdivision (g) of this section when a term loan would be in the borrower's best interest.

(f) The loan shall bear interest on the amount of the principal obligation outstanding at any time at a rate, as negotiated by the borrower and lender, as the office finds necessary to meet the loan money market. As used in this chapter, "interest" does not include premium charges for insurance and service charges if any. Where a loan is evidenced by a bond issue of a political subdivision, the interest thereon may be at any rate which such bonds may legally bear.

(g) The loan shall provide for the application of the borrower's periodic payments to amortization of the principal of the loan.

(h) The loan shall contain such terms and provisions with respect to insurance, repairs, alterations, payment of taxes and assessments, foreclosure proceedings, anticipation of maturity, additional and secondary liens, and other matters as the office may in its discretion prescribe.

(i) The loan shall have a principal obligation not in excess of an

amount equal to 90 percent of the total construction cost. Where the borrower is a political subdivision, the office may fully insure loans equal to the total construction cost.

(j) The borrower shall offer reasonable assurance that the services of the health facility will be made available to all persons residing or employed in the area served by the facility.

(k) A certificate of need or certificate of exemption has been issued for the project to be financed pursuant to Part 1.5 (commencing with Section 437) of this division, unless the project is not subject to such requirement. With respect to projects for which a certificate of exemption has been issued or which are otherwise exempt from the requirement for a certificate of need, the director of the office may require a showing of need for the project be demonstrated in an informal review process to be conducted by the health systems agency for the area, as designated pursuant to federal Public Law 93-641, and by the Division of Certificate of Need of the office. The health systems agency and the Division of Certificate of Need shall submit their recommendations and analyses respecting the project to the director of the office within 20 days after receiving the director's request for such review.

(l) In the case of acquisitions, a project loan shall be guaranteed only for transactions not in excess of the fair market value of the acquisition.

Fair market value shall be determined, for purposes of this subdivision, pursuant to the following procedure, which shall be utilized during the state review of a loan guarantee application:

(1) Completion of a property appraisal by an appraisal firm qualified to make appraisals, as determined by the office, before closing a loan on the project.

(2) Evaluation of the appraisal in conjunction with the book value of the acquisition by the office. When acquisitions involve additional construction, the office shall evaluate the proposed construction to determine that the costs are reasonable for the type of construction proposed. In those cases where this procedure reveals that the cost of acquisition exceeds the current value of a facility, including improvements, then the acquisition cost shall be deemed in excess of fair market value.

In determining financial feasibility of projects of counties pursuant to this section, the office shall take into consideration any assistance for the project to be provided under Section 16715 of the Welfare and Institutions Code or from other sources. It is the intent of the Legislature that the office endeavor to assist counties in whatever ways are possible to arrange loans which will meet the requirements for insurance prescribed by this section.

SEC. 8. Section 6029.1 is added to the Penal Code, to read:

6029.1. (a) There is hereby created the County Jail Capital Expenditure Fund. Moneys in the County Jail Capital Expenditure Fund shall be expended by the Board of Corrections as specified in this section to assist counties to finance jail construction. Moneys in

the County Jail Capital Expenditure Fund shall be available for encumbrance without regard to fiscal years, and notwithstanding any other provision of law, shall not revert to the General Fund or be transferred to any other fund or account in the State Treasury except for purposes of investment as provided in Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code. All interest or other increment resulting from such investment shall be deposited in the County Jail Capital Expenditure Fund, notwithstanding Section 16305.7 of the Government Code.

(b) As used in this section, "construction" shall include, but not be limited to, reconstruction, remodeling, replacement of facilities, and the performance of deferred maintenance activities on facilities pursuant to rules and regulations regarding such activities as shall be adopted by the Board of Corrections.

(c) The Board of Corrections shall provide financial assistance to counties from the County Jail Capital Expenditure Fund according to policies, criteria, and procedures adopted by the board pursuant to recommendations made by the Subcommittee on Corrections of the Senate Judiciary Committee and an appropriate subcommittee of the Assembly Criminal Justice Committee and after consulting with a representative sample of county boards of supervisors and sheriffs.

(d) In performing the duties set forth in this section, the Board of Corrections and the policy committees of the Legislature shall consider the following:

(1) The extent to which the county requesting aid has exhausted all other available means of raising the requested funds for the capital improvements and the extent to which the funds from the County Jail Capital Expenditure Fund will be utilized to attract other sources of capital financing for county jail facilities;

(2) The extent to which a substantial county match shall be required and any circumstances under which the county match may be reduced or waived;

(3) The extent to which the county's match shall be based on the county's previous compliance with Board of Corrections standards;

(4) The extent to which the capital improvements are necessary to the life or safety of the persons confined or employed in the facility or the health and sanitary conditions of the facility;

(5) The extent to which the county has utilized reasonable alternatives to pre- and post-conviction incarceration, including, but not limited to, programs to facilitate release upon one's own recognizance where appropriate to individuals pending trial, sentencing alternatives to custody, and civil commitment or diversion programs consistent with public safety for those with drug or alcohol related problems or mental or developmental disabilities.

SEC. 9. Section 16715 is added to the Welfare and Institutions Code, to read:

16715. (a) The Local Health Capital Expenditure Account is

hereby created in the County Health Services Fund. Moneys in the Local Health Capital Expenditure Account shall be expended by the State Department of Health Services, as specified in this section, to (1) provide financial assistance to counties to fund capital expenditures for county health facilities and equipment thereof, including new facilities and equipment and the replacement or modernization of existing facilities and equipment, and (2) defray the department's administrative costs in providing technical assistance to counties relative to financing such capital improvements, for which purpose the department shall establish a special personnel unit. Moneys in the Local Health Capital Expenditure Account shall be available for encumbrance without regard to fiscal year and, notwithstanding any other provision of law, shall not revert to the General Fund or be transferred to any other fund or account in the State Treasury except for purposes of investment as provided in Article 4 (commencing with Section 16470) of Chapter 3 of Part 2 of Division 4 of Title 2 of the Government Code. All interest or other increment resulting from such investment shall be deposited in the Local Health Capital Expenditure Account, notwithstanding Section 16305.7 of the Government Code.

As used in this section, "county health facility" means any facility owned or operated by a county for the provision of county health services.

(b) The State Department of Health Services shall provide financial assistance to counties pursuant to this section in the form of direct loans or grants. Any grant under this section shall not exceed 50 percent of the cost of the project to be financed. The remainder of the cost of the project may be financed with any moneys available to the county for such purpose, including a loan or other financing method.

Loans under this section may be made for an amount not exceeding 80 percent of the project costs, for a term not exceeding 40 years, and shall bear interest on the unpaid principal balance at a rate to be computed annually, which 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 loan payment is made. The State Department of Health Services shall not require loans under this section to be secured or insured, but shall require as a condition of making such a loan that there be a feasible plan for repayment.

The extent to which state assistance under this section shall be in the form of grants or loans, and the discretionary terms of such assistance, shall be established by the State Department of Health Services, as will best serve the needs of each health service area in improving the availability or quality of county health care services. It is the intent of the Legislature that, in providing financial assistance under this section, the State Department of Health Services shall endeavor to equalize the availability of such assistance

on the basis of need throughout all geographic areas of the state. In allocating such financial assistance, the amount of effort being made by a county to serve all its residents in a comprehensive and efficient manner shall also be considered.

(c) Any county desiring assistance for financing an eligible project under this section shall submit an application to the State Department of Health Services and concurrently transmit a copy thereof to the area health planning agency for the health service area in which the applicant county is located. The area health planning agency shall hold one or more public hearings on the application and shall transmit its recommendation to the State Director of Health Services, who shall make the final decision.

(d) The State Department of Health Services shall develop criteria for use by the department and area health planning agencies in reviewing applications for assistance under this section. The criteria shall be developed in consultation with area health planning agencies, the Office of Statewide Health Planning and Development, the California Conference of Local Health Officers, the County Supervisors' Association of California, and the California Hospital Association, and shall include, but not be limited to, the following:

(1) Consistency of the proposed project with the county health services plan and with the county's long-range development plan.

(2) Consistency of the proposed project with the health systems plan and annual implementation plan developed for the area pursuant to federal Public Law 93-641, as amended.

(3) The extent to which the project will facilitate access of county indigents to health care services, particularly primary health services.

(4) The immediate and long-term financial feasibility of the project, taking into consideration all forms of assistance proposed to be obtained for the project.

(5) In the case of modernization projects, the extent of physical deterioration of the facilities or equipment to be improved, remodeled, or replaced.

(6) The adequacy of the county health services plan in meeting basic public health needs and the personal health needs of indigents.

(7) The extent to which the county is moving towards a more organized or efficient system of health care delivery.

(8) The extent to which the project is required to eliminate or prevent imminent safety hazards, as defined by federal, state, or local laws or regulations, or to comply with state licensure standards, or to comply with accreditation standards.

(9) The extent to which funds from the Local Health Capital Expenditure Account will be utilized to attract other sources of capital funding for county health facilities.

(e) The State Department of Health Services shall disburse financial assistance under this section pursuant to a contract with the recipient county, which shall specify the conditions of the grant or loan. Such conditions may include provisions which assure

compliance with the health care objectives for which the application was approved or given priority.

SEC. 10. The sum of one hundred forty million dollars (\$140,000,000) is hereby appropriated from the Special Account for Capital Outlay of the General Fund created by Section 16368 of the Government Code as follows:

(1) For transfer to the Local Health Capital Expenditure Account in the County Health Services Fund in accordance with the following schedule:

- (a) For transfer during the 1980–81 fiscal year..     \$33,333,333
- (b) For transfer during the 1981–82 fiscal year..     33,333,333
- (c) For transfer during the 1982–83 fiscal year..     33,333,334

(2) For transfer to the County Jail Capital Expenditure Fund, there shall be allocated forty million dollars (\$40,000,000), to be used for grants only.

Moneys transferred from the Special Account for Capital Outlay to the Local Health Capital Expenditure Account pursuant to this section shall not be subject to restrictions or limitations on the use of moneys in the Special Account for Capital Outlay, including any requirement for approval by the State Allocation Board.

Moneys transferred from the Special Account for Capital Outlay to the County Jail Capital Expenditure Fund pursuant to this section shall not be subject to restrictions on the use of moneys in the Special Account for Capital Outlay, including any requirement for approval by the State Allocation Board.

In the event Assembly Bill No. 2973 of the 1979–80 Regular Session is not chaptered, or as chaptered does not provide for establishment of a Special Account for Capital Outlay in the General Fund, the amount appropriated by this section for transfer to the Local Health Capital Expenditure Account shall, instead, be appropriated, on a first priority basis, from moneys in the Capital Outlay Fund for Public Higher Education deposited therein pursuant to Section 6217 of the Public Resources Code, provided, however, that the obligations in subdivisions (a), (b), (c), and (d) of Section 6217 of the Public Resources Code have been met, and provided, further, that the Chairman of the State Lands Commission finds that there existed 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. 11. It is the intent of the Legislature, if this bill and Assembly Bill 2992 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 2992, that Section 15432 of the Government Code, as amended by Section 1 of Assembly Bill 2992, be further amended on the effective date of this act in the form set forth in Section 2.1 of this act to incorporate

the changes in Section 15432 proposed by this bill. Therefore, if this bill and Assembly Bill 2992 are both chaptered and become effective on or before January 1, 1981, and Assembly Bill 2992 is chaptered before this bill and amends Section 15432, Section 2.1 of this act shall become operative on the effective date of this act and Section 2 of this act shall not become operative.

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## CHAPTER 1352

An act to amend Sections 6094 and 6244 of the Revenue and Taxation Code, relating to taxation, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1980 Filed with  
Secretary of State September 30, 1980.]

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

SECTION 1. Section 6094 of the Revenue and Taxation Code is amended to read:

6094. (a) If a purchaser who gives a resale certificate makes any use of the property other than retention, demonstration, or display while holding it for sale in the regular course of business, the use shall be taxable to the purchaser under Chapter 3 (commencing with Section 6201) of this part as of the time the property is first used by him, and, except as provided in subdivisions (b), (c), and (d) of this section, the sales price of the property to him shall be the measure of the tax.

(b) If such use is limited to the loan of the property to customers as an accommodation while awaiting delivery of property purchased or leased from the lender or while property is being repaired for customers by the lender, the measure of the tax is the fair rental value of the property for the duration of each loan so made.

(c) If the property is used frequently for purposes of demonstration or display while holding it for sale in the regular course of business and is used partly for other purposes, the measure of the tax is the fair rental value of the property for the period of such other use or uses.

(d) If the property is mobile transportation equipment as defined in Section 6023, and the use is limited to leasing the equipment, the purchaser may elect to pay his use tax measured by the fair rental value, if the election is made on or before the due date of a return for the period in which the equipment is first leased. The election must be made by reporting tax measured by the fair rental value on the return for that period, or in such other manner as the board may prescribe. Tax must thereafter be paid with the return for each reporting period, measured by the fair rental value, whether the equipment is within or without the state. The election may not be

revoked with respect to the equipment as to which it is made.

(e) As used in subdivision (d), the term "fair rental value" means the rentals required by the purchaser under the lease except where the board determines that such rentals are nominal. The term shall not include any reimbursement payments made by the lessee to the purchaser for such use tax.

SEC. 2. Section 6244 of the Revenue and Taxation Code is amended to read:

6244. (a) If a purchaser who gives a resale certificate or purchases property for the purpose of reselling it makes any storage or use of the property other than retention, demonstration, or display while holding it for sale in the regular course of business, the storage or use is taxable as of the time the property is first so stored or used.

(b) If such use is limited to the loan of the property to customers as an accommodation while awaiting delivery of property purchased or leased from the lender or while property is being repaired for customers by the lender, the measure of the tax is the fair rental value of the property for the duration of each loan so made.

(c) If the property is used frequently for purposes of demonstration or display while holding it for sale in the regular course of business and is used partly for other purposes, the measure of the tax is the fair rental value of the property for the period of such other use or uses.

(d) If the property is mobile transportation equipment as defined in Section 6023, and the use is limited to leasing the equipment, the purchaser may elect to pay his use tax measured by the fair rental value, if the election is made on or before the due date of a return for the period in which the equipment is first leased. The election must be made by reporting tax measured by the fair rental value on the return for that period, or in such other manner as the board may prescribe. Tax must thereafter be paid with the return for each reporting period, measured by the fair rental value, whether the equipment is within or without the state. The election may not be revoked with respect to the equipment as to which it is made.

(e) As used in subdivision (d), the term "fair rental value" means the rentals required by the purchaser under the lease except where the board determines that such rentals are nominal. The term shall not include any reimbursement payments made by the lessee to the purchaser for such use tax.

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 enactment of Sections 6092.1 and 6243.1 of the Revenue and Taxation Code by Chapter 1161 of the Statutes of 1979, has raised certain ambiguities and uncertainty with respect to the determination of what constitutes fair rental value for purposes of the use tax payable in connection with leases of mobile transportation equipment. In order to remove such uncertainty at

the earliest possible time, it is necessary that this act take effect immediately.

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CHAPTER 1353

An act to amend Sections 14057, 14058, 33595, 41601, 42237, 42238, 42241.3, 56026, 56040, 56100, 56133, 56160, 56161, 56170, 56195.1, 56195.2, 56195.3, 56195.5, 56195.7, 56195.8, 56221, 56301, 56320, 56321, 56322, 56324, 56327, 56333, 56341, 56343, 56345, 56362, 56363, 56364, 56366, 56368, 56369, 56381, 56453, 56501, 56502, 56503, 56505, 56506, 56602, 56604, 56609, 56712, 56721, 56722, 56723, 56724, 56725, 56726, 56728, 56735, 56740, 56751, 56752, 56753, 56754, 56760, 56761, and 56782 of, to amend the headings of Article 11 (commencing with Section 41880) of Chapter 5 of Part 24 and Article 2.5 (commencing with Section 56333) of Chapter 4 of Part 30 of, to amend and renumber Sections 41891 and 41897 of, to add Sections 39365.5, 56134, 56338, and 56366.5 to, to add Chapter 4.5 (commencing with Section 56450) to Part 30 of, to add and repeal Chapter 11 (commencing with Section 42900) of Part 24 of, to repeal Sections 41863, 41864, 41866, 41880, 41881, 41882, 41884, 41885, 41886, 41887, 41888, 41889, 41977, 42210, 42238.3, 46605, 51051, and 51052 of, and to repeal Article 2 (commencing with Section 1710) of, Article 12 (commencing with Section 1850) of, Article 13 (commencing with Section 1870) of, and Article 14 (commencing with Section 1880) of, Chapter 6 of Part 2 and Article 7 (commencing with Section 48310) of Chapter 2 of Part 27 of, the Education Code, and to amend Section 11 of Chapter 797 of the Statutes of 1980, relating to education, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1980. Filed with  
Secretary of State September 30, 1980]

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

SECTION 1. Article 2 (commencing with Section 1710) of Chapter 6 of Part 2 of the Education Code is repealed.

SEC. 2. Article 12 (commencing with Section 1850) of Chapter 6 of Part 2 of the Education Code is repealed.

SEC. 3. Article 13 (commencing with Section 1870) of Chapter 6 of Part 2 of the Education Code is repealed.

SEC. 4. Article 14 (commencing with Section 1880) of Chapter 6 of Part 2 of the Education Code is repealed.

SEC. 5. Section 14057 of the Education Code is amended to read:  
14057. The Superintendent of Public Instruction shall allow, in addition to all other allowances, to the county school service funds: (a) for all emergency schools maintained in each elementary school district of the county by the county superintendent of schools, and

(b) each elementary school maintained in juvenile halls, juvenile homes, and juvenile camps, by the county superintendent of schools, and all opportunity schools and classes maintained by the county superintendent of schools pursuant to Sections 48633 and 48634.

No allowance shall be made for emergency schools which is in excess of the actual expense of maintaining the emergency school.

SEC. 6. Section 14058 of the Education Code is amended to read:

14058. For all handicapped adults educated by the county superintendent of schools, for all secondary schools maintained in juvenile halls, juvenile homes and juvenile camps by the county superintendent of schools, and for all students enrolled in grades 9 to 12, inclusive, in opportunity schools and classes and all continuation schools and classes maintained by the county superintendent of schools, the Superintendent of Public Instruction shall allow the same amount as he or she would compute for the foundation program of a high school district under Section 41712.

However, with respect to handicapped adults, the following limits shall apply:

(a) The total of allowances for education of handicapped adults in classes established by the county superintendent of schools pursuant to Section 52570 or 78440 shall not exceed fifty thousand dollars (\$50,000) in any one fiscal year. The Superintendent of Public Instruction shall establish a system of priorities that he shall by rule or regulation adopt which shall give highest priority to those counties in which no or an insufficient program for the education of handicapped adults is provided by the school districts within the county, in order to comply with the limitation prescribed by this subdivision.

(b) The Superintendent of Public Instruction shall allow for handicapped adults the amount specified in Section 41840 or 84780 for each unit of average daily attendance for adults for high school districts.

SEC. 7. Section 33595 of the Education Code is amended to read:

33595. (a) The commission shall study and provide assistance and advice to the State Board of Education in new or continuing areas of research, program development, and evaluation in special education.

(b) The commission shall report to the State Board of Education not less than once a year on the following:

(1) Activities necessary to be undertaken regarding special education for individuals with exceptional needs which are enumerated in Section 56310.

(2) The priorities and procedures utilized in the distribution of federal and state funds.

(3) The unmet educational needs of individuals with exceptional needs within the state.

(4) Recommendations relating to providing better educational services to individuals with exceptional needs including, but not limited to, the development, review, and revision of the definition

of "appropriate," as that term is used in the phrase "free appropriate public education," as used in P.L. 94-142.

(c) Commission recommendations or requests shall be transmitted by letter from the commission chairperson to the president of the State Board of Education. Each communication shall be placed on the agenda of the next forthcoming state board meeting in accordance with the announced annual state board agenda cutoff dates. Following the state board meeting, the commission shall be notified by the state board as to what action has been taken on each recommendation or request.

SEC. 8. Section 39365.5 is added to the Education Code, to read:

39365.5. (a) As used in this section, the terms "district", "special education services region", and "county office" have the same meaning as prescribed by Part 30 (commencing with Section 56000).

(b) Pursuant to subdivision (b) of Section 39384, the governing board of a school district that adopts a resolution of intent to lease vacant classrooms shall first offer to lease such classrooms for special education programs that are provided by either other districts that comprise part of the special education services region in which the leasing district is included or by the county office having jurisdiction over the leasing district, to the pupils of the leasing district, in whole or in part.

(c) Upon adoption of the resolution, the governing board shall notify, in writing, other districts or the county office, as specified in subdivision (b), of its intent to lease vacant classrooms. The notice shall describe the vacant classrooms, shall specify that the lease shall not exceed a term of 99 years and that the lease payment and other terms of the lease are subject to negotiation, and shall state that the offer to lease is valid for no more than 60 days after receipt thereof.

(d) Notwithstanding Section 39366, the governing board may include in its resolution a time for a public meeting of the governing board to be held at its regular place of meeting at which sealed proposals to lease will be received and considered, and, notwithstanding Section 39369, may post copies of the resolution and publish notice of the adoption of the resolution. However, the governing board shall not act on any proposal prior to either (1) receipt from the county superintendent or the public education agency, as appropriate, of its intent to lease the classrooms or of its intent not to do so; or (2) expiration of the 60-day period prescribed by subdivision (c), whichever first occurs.

(e) An entity desiring to lease the vacant classrooms shall, within 60 days from receipt of the notification, inform the governing board, in writing, of its intent to lease or not to lease the classrooms.

(f) (1) The lease payments and other terms of the lease for vacant classrooms leased to other districts or to the county office, as specified in subdivision (b), shall be negotiated by the entity desiring to lease the vacant classrooms and the governing board. Any entity eligible to lease vacant classrooms pursuant to this section and any governing board may negotiate lease payments prior to the

availability of the vacant classrooms.

(2) The lease payments shall not exceed the district's actual costs for maintenance, operation, and custodial services for the leased classrooms.

(3) If more than one governing board offers to lease classrooms, the entity desiring to lease such classrooms may elect to negotiate either individually with each district, or jointly, with some or all of such districts. If the entity elects joint negotiations, the lease payments shall not exceed the participating districts' average actual costs for maintenance, operation, and custodial services for the leased classrooms.

(g) If the governing board and the entity desiring to lease the classrooms are unable to complete negotiations for the lease and arrive at a mutually satisfactory lease within the same 60-day period that the entity has to inform the governing board of its intent to lease or not lease, the governing board may lease the classrooms in accordance with the provisions of this article.

(h) If vacant classrooms are available in both operating and nonoperating schools, the governing board, prior to adopting a resolution of intent to lease, shall consider which school would provide the environment least restrictive to the needs of handicapped pupils or individuals with exceptional needs, as appropriate, for whom the county superintendent or public education agency provides special education programs.

SEC. 9. Section 41601 of the Education Code is amended to read:

41601. For the purposes of this chapter, the governing board of each school district shall report to the Superintendent of Public Instruction during each fiscal year the average daily attendance of the district for all full school months during (1) the period between July 1st and December 31st, inclusive, to be known as the "first period" report for the first principal apportionment, and (2) the period between July 1st and April 15th, inclusive, to be known as the "second period" report for the second principal apportionment. The county superintendent of schools shall report the average daily attendance for the schools and classes maintained by him or her and the average daily attendance for the county school tuition fund. If the average daily attendance in the district or in schools or classes maintained by the county superintendent of schools for the period of time between July 1st and June 30th is greater or lesser than the average daily attendance reported for the second period report, the appropriate increases and decreases in the several categories of attendance for which separate foundation programs are required to be computed shall be recomputed on the basis of the foundation program and assessed valuation of the fiscal year in which such increases and decreases in average daily attendance were applicable and the appropriate increases and decreases in apportionments shall be added or withheld in the next succeeding fiscal year pursuant to Section 41341.

Each report shall be prepared in accordance with instructions on

forms prescribed and furnished by the Superintendent of Public Instruction and average daily attendance shall be computed in the following manner:

(a) The average daily attendance in the regular elementary, junior high, and high schools, including continuation schools and classes and opportunity schools and classes, maintained by the school districts shall be determined by dividing the total number of days of attendance allowed in all full school months in each period, by the number of days such schools are actually taught in all full school months in each period, exclusive of Saturdays or Sundays.

(b) The average daily attendance in summer school and outdoor science and conservation education classes maintained during the period between the last day the regular day schools are in session during the preceding year and the first day the regular day schools are in session during the current year shall be reported on both the first period and second period reports. Such average daily attendance shall be computed by dividing the days of attendance allowed by 175.

(c) The attendance for schools and classes maintained by the county superintendent of schools and the county school tuition fund shall be reported in the same manner as reported by school districts. The average daily attendance of the school, shall be determined by dividing the total number of days of attendance in all full school months in the first period by a divisor of 70, in the second period by 135 and at annual time by 175. For attendance in special classes and centers pursuant to Section 56364, the average daily attendance shall be reported by the county superintendent of schools but shall be credited for revenue limit purposes to the district in which the pupil resides.

(d) The days of attendance in classes for adults and regional occupation centers programs shall be reported in the same manner as all other attendance under subdivision (a) or (b). The average daily attendance in such schools and classes shall be determined by dividing the total number of days of attendance in all full school months in the first period by a divisor of 70, in the second period by 135 and at annual time by 175.

SEC. 9.5. Section 41601 of the Education Code, as amended by Section 37.5 of Assembly Bill No. 2196 of the 1979–80 Regular Session of the Legislature, is amended to read:

41601. For the purposes of this chapter, the governing board of each school district shall report to the Superintendent of Public Instruction during each fiscal year the average daily attendance of the district for all full school months during (1) the period between July 1st and December 31st, inclusive, to be known as the “first period” report for the first principal apportionment, and (2) the period between July 1st and April 15th, inclusive, to be known as the “second period” report for the second principal apportionment. The county superintendent of schools shall report the average daily attendance for the schools and classes maintained by him or her and

the average daily attendance for the county school tuition fund. If the average daily attendance in the district or in schools and classes maintained by the county superintendent of schools for the period of time between July 1st and June 30th is greater or lesser than the average daily attendance reported for the second period report, the appropriate increases and decreases in the several categories of attendance for which separate foundation programs are required to be computed shall be recomputed on the basis of the foundation program and assessed valuation of the fiscal year in which such increases and decreases in average daily attendance were applicable and the appropriate increases and decreases in apportionments shall be added or withheld in the next succeeding fiscal year pursuant to Section 41341.

Each report shall be prepared in accordance with instructions on forms prescribed and furnished by the Superintendent of Public Instruction and average daily attendance shall be computed in the following manner:

(a) The average daily attendance in the regular elementary, junior high, and high schools, including continuation schools and classes and opportunity schools and classes, maintained by the school districts shall be determined by dividing the total number of days of attendance allowed in all full school months in each period, by the number of days such schools are actually taught in all full school months in each period, exclusive of Saturdays or Sundays.

(b) The average daily attendance in summer school and outdoor science and conservation education classes maintained during the period between the last day the regular day schools are in session during the preceding year and the first day the regular day schools are in session during the current year shall be reported on both the first period and second period reports. Such average daily attendance shall be computed by dividing the days of attendance allowed by 175.

(c) The attendance for schools and classes maintained by the county superintendent of schools and the county school tuition fund shall be reported in the same manner as reported by school districts. The average daily attendance of the school, shall be determined by dividing the total number of days of attendance in all full school months in the first period by a divisor of 70, in the second period by 135 and at annual time by 175. For attendance in special classes and centers pursuant to Section 56364, the average daily attendance shall be reported by the county superintendents but credited for revenue limit purposes to the district in which the pupil resides.

(d) The days of attendance in classes for adults and regional occupational centers programs shall be reported in the same manner as all other attendance under subdivision (a) or (b). The average daily attendance in such schools and classes shall be determined by dividing the total number of days of attendance in all full school months in the first period by a divisor of 85 in the second period by 135 and at annual time by 175.

- SEC. 10. Section 41863 of the Education Code is repealed.  
SEC. 11. Section 41864 of the Education Code is repealed.  
SEC. 12. Section 41866 of the Education Code is repealed.  
SEC. 13. The heading of Article 11 (commencing with Section 41880) of Chapter 5 of Part 24 of the Education Code is amended to read:

**Article 11. Allowances for Handicapped Pupils**

- SEC. 14. Section 41880 of the Education Code is repealed.  
SEC. 15. Section 41881 of the Education Code is repealed.  
SEC. 16. Section 41882 of the Education Code is repealed.  
SEC. 17. Section 41884 of the Education Code is repealed.  
SEC. 18. Section 41885 of the Education Code is repealed.  
SEC. 19. Section 41886 of the Education Code is repealed.  
SEC. 20. Section 41887 of the Education Code is repealed.  
SEC. 21. Section 41888 of the Education Code is repealed.  
SEC. 22. Section 41889 of the Education Code is repealed.  
SEC. 23. Section 41891 of the Education Code is amended and renumbered to read:

41880. The provisions of this article shall supersede any other provisions of this code in conflict therewith. Allowances under this article shall be provided pursuant to regulations of the State Board of Education and standards and requirements established by the State Board of Education.

SEC. 24. Section 41897 of the Education Code is amended and renumbered to read:

41881. The Superintendent of Public Instruction shall allow to each district participating in a regional occupational center or to each county superintendent of schools operating a regional occupational center, for each unit of average daily attendance attributable to a person educated in a regional occupational center or program pursuant to Section 52315, the following amounts:

(a) One thousand nine hundred fifty-five dollars (\$1,955) for each visually handicapped person.

(b) One thousand one hundred twenty dollars (\$1,120) for each deaf person.

(c) Six hundred twenty dollars (\$620) for each orthopedically handicapped person.

The allowance prescribed by this section is in addition to other allowances or apportionments which may be received because of such attendance and can only be received if the specific service for which the allowance or apportionment is made is not otherwise provided by a community college within a reasonable commuting distance of the regional occupational center.

Each governing body maintaining a regional occupational center or program shall account for expenditures made on account of additional special instruction and support services pursuant to Section 52315. Expenditures shall be reported as an amount per pupil

in average daily attendance in each of the categories specified in subdivisions (a), (b), and (c). If the Superintendent of Public Instruction determines that the expenditures, as reported, do not equal or exceed the allowances prescribed in subdivisions (a), (b), and (c), the amount of the deficiency shall be withheld from apportionments to the school district or the county superintendent of schools in the succeeding fiscal year in accordance with the procedure prescribed in Section 41341.

SEC. 24.5. Section 41977 of the Education Code is repealed.

SEC. 25. Section 42210 of the Education Code is repealed.

SEC. 26. Section 42237 of the Education Code is amended to read:

42237. (a) For the 1978-79 fiscal year, the county superintendent of schools shall, for each school district in the county:

(1) Utilizing the second principal apportionment units of average daily attendance for the 1978-79 fiscal year and the adult and summer school units of average daily attendance for the 1977-78 fiscal year, recalculate the 1978-79 funding level pursuant to Section 2 of Chapter 292 of the Statutes of 1978, as amended by Chapter 332, Statutes of 1978 and Chapter 119, Statutes of 1979, excluding the adjustments authorized pursuant to former Sections 42239, 42241.7, 42243.6, 42245, and 46605, and 50 percent of the amount of adjustment authorized by Section 42950 as it read prior to amendment by Chapter 238 of the Statutes of 1979.

(2) Deduct the following from the amount determined in paragraph (1):

(A) The amounts which the district received, but not to exceed the amount expended in the 1978-79 fiscal year, for purposes of child development, developmental centers for handicapped pupils, and meals for needy pupils programs from funds provided pursuant to Chapter 292 of the Statutes of 1978, as amended by Chapter 332 of the Statutes of 1978, and Chapter 119 of the Statutes of 1979.

(B) An amount equal to the 1978-79 school year adult average daily attendance generated in the adult education programs specified in Item 316.1 of the Budget Act of 1978 (Ch. 359, Stats. 1978) multiplied by the 1978-79 adult revenue limit computed pursuant to either subdivision (f) or (g) and subdivision (i) of Section 43001 of the Education Code reduced by the district's reduction factor calculated pursuant to Section 2 of Chapter 292 of the Statutes of 1978 as amended by Chapter 332, Statutes of 1978, and Chapter 119, Statutes of 1979.

(3) Add to the amount determined in paragraph (2):

(A) The state apportionments received by the district in fiscal year 1978-79 pursuant to Item 316.1 of the Budget Act of 1978 (Ch. 359, Stats. 1978), excluding that portion allocated for adults in subparagraph (A) of paragraph (4) of subdivision (c).

(B) The balances of funds on June 30, 1977, restricted for meals for needy pupils for districts which levied no tax pursuant to Section 49502 of the Education Code in the 1977-78 fiscal year.

(C) One half of the amount of salary increases granted to

classified employees of a school district in the fiscal years 1974-75 to 1979-80, inclusive, by the board of supervisors of a city and county.

(D) Any revenue limit increase authorized pursuant to Section 42244 which was not authorized to be levied prior to the 1979-80 fiscal year.

(4) Divide the amount determined in paragraph (3) by the sum of the 1978-79 second principal apportionment units of average daily attendance in the regular school year and in summer programs for graduating high school seniors. That amount shall be known as the school district's revenue limit per unit of average daily attendance for the 1978-79 fiscal year.

(5) The Superintendent of Public Instruction shall determine the statewide weighted mean revenue limit computed pursuant to paragraph (4) of this subdivision for the following groups of districts. For the purpose of this paragraph, "ADA" is the district's regular average daily attendance.

(A) Elementary districts with 100 or less units of ADA.

(B) Elementary districts with more than 100 and less than 901 units of ADA.

(C) High school districts with less than 301 units of ADA.

(D) Unified districts with less than 1501 units of ADA.

(E) Elementary districts with greater than 900 units of ADA.

(F) High school districts with greater than 300 units of ADA.

(G) Unified districts with greater than 1500 units of ADA.

(b) In the 1979-80 fiscal year, the county superintendent shall adjust each school district's revenue limit computed pursuant to subdivision (a) as follows:

(1) Divide the district's prior year revenue limit into the prior year's statewide weighted mean revenue limit for that type of district and multiply that result by the product of 0.086 and the amount determined in subparagraph (G) of paragraph (5) of subdivision (a).

(2) The amount determined in paragraph (1) shall be added to the district's 1978-79 fiscal year revenue limit computed pursuant to paragraph (4) of subdivision (a). That result shall be the district's revenue limit per unit of average daily attendance for the 1979-80 fiscal year.

(c) The county superintendent shall determine the district's total revenue limit for the 1979-80 fiscal year by adding the following:

(1) The amount obtained by multiplying the revenue limit determined pursuant to subdivision (b) by the sum of the second principal apportionment regular average daily attendance, and the product of 0.6 multiplied by the summer average daily attendance for graduating high school seniors.

(2) The amount determined pursuant to Sections 42239, 42241.7, 42243.6, 42245, and 46605.

(3) The amounts for meals for needy pupils determined in subparagraph (A) of paragraph (2) of subdivision (a) multiplied by 1.07, and adjusted for pupil participation.

(4) An amount for each unit of adult average daily attendance in the 1979–80 fiscal year for the programs specified in subdivision (b) of Section 41976 as follows:

(A) Determine for each district its 1978–79 fiscal year adult revenue limit per unit of average daily attendance computed pursuant to Sections 42244 and 43001.8 and subdivision (f) or (g) of Section 43001 as modified by the appropriate percentage in subdivision (c), (d), or (e) of Section 2 of Chapter 292 of the Statutes of 1978, as amended by Chapter 332 of the Statutes of 1978, as amended by Chapter 119 of the Statutes of 1979, plus the prorated amount allocated pursuant to Item 316.1 of the Budget Act of 1978 (Ch. 359, Stats. 1978) for adult programs.

(B) For districts with an adult revenue limit as determined in subparagraph (A) which is less than the 1978–79 fiscal year statewide average adult revenue limit computed pursuant to subparagraph (A), the adult revenue limit for the 1979–80 fiscal year shall be the amount determined in subparagraph (A) multiplied by 1.07.

(C) For districts with a revenue limit as determined in subparagraph (A) which is between the statewide average adult revenue limit computed pursuant to subparagraph (A) for the 1978–79 fiscal year and the product of 1.07 times that amount the adult revenue limit for 1979–80 fiscal year shall be 1.07 times the 1978–79 fiscal year statewide average adult revenue limit.

(D) For districts with a revenue limit as determined in subparagraph (A) which is greater than 1.07 times the statewide average adult revenue limit computed pursuant to subparagraph (A) the amount computed pursuant to subparagraph (A) for the 1979–80 fiscal year shall be the amount determined in subparagraph (A) except that for any units of adult average daily attendance in excess of that reported for the second principal apportionment of the 1978–79 fiscal year, the adult revenue limit shall be 1.07 multiplied by the 1978–79 fiscal year statewide average adult revenue limit.

(E) To the amount computed in subparagraph (B), (C), or (D) shall be added the adjustments, if any, made pursuant to Sections 42243.6, 42245, and 46605.

(d) In no event shall the amount computed pursuant to this section be less than the product of 1.02 times the amount computed pursuant to Section 2 of Chapter 292 of the Statutes of 1978, as amended by Chapter 332 of the Statutes of 1978, and Chapter 119 of the Statutes of 1979, exclusive of funds expended for the purposes of child development programs.

(e) The Superintendent of Public Instruction shall apportion to each school district in the 1979–80 fiscal year the amount determined in this section less the sum of: (1) the district's property tax revenue received pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of the Revenue and Taxation Code; (2) the amount, if any, received pursuant to Part 18.5 (commencing with Section 38101) of the Revenue and Taxation Code; (3) the amount if any, received pursuant to Chapter 3 (commencing with Section 16140) of the

Government Code; (4) prior year taxes and taxes on the unsecured roll; (5) fifty percent of the amount received pursuant to Section 41603.

SEC. 26.5. Section 42237 of the Education Code, as amended by Section 42 of Assembly Bill No. 2196 of the 1979-80 Regular Session of the Legislature, is amended to read:

42237. (a) For the 1978-79 fiscal year, the county superintendent of schools shall, for each school district in the county:

(1) Utilizing the second principal apportionment units of average daily attendance for the 1978-79 fiscal year and the adult and summer school units of average daily attendance for the 1977-78 fiscal year, recalculate the 1978-79 funding level pursuant to Section 2 of Chapter 292 of the Statutes of 1978, as amended by Chapter 332, Statutes of 1978 and Chapter 119, Statutes of 1979, excluding the adjustments authorized pursuant to former Sections 42239, 42241.7, 42243.6, 42245, and 46605, and 50 percent of the amount of adjustment authorized by Section 42950 as it read prior to amendment by Chapter 238 of the Statutes of 1979.

(2) Deduct the following from the amount determined in paragraph (1):

(A) The amounts which the district received, but not to exceed the amount expended in the 1978-79 fiscal year, for purposes of child development, developmental centers for handicapped pupils, and meals for needy pupils programs from funds provided pursuant to Chapter 292 of the Statutes of 1978, as amended by Chapter 332 of the Statutes of 1978, and Chapter 119 of the Statutes of 1979.

(B) An amount equal to the 1978-79 school year adult average daily attendance generated in the adult education programs specified in Item 316.1 of the Budget Act of 1978 (Ch. 359, Stats. 1978) multiplied by the 1978-79 adult revenue limit computed pursuant to either subdivision (f) or (g) and subdivision (i) of Section 43001 of the Education Code reduced by the district's reduction factor calculated pursuant to Section 2 of Chapter 292 of the Statutes of 1978 as amended by Chapter 332, Statutes of 1978, and Chapter 119, Statutes of 1979.

(3) Add to the amount determined in paragraph (2):

(A) The state apportionments earned by the district in fiscal year 1978-79 pursuant to Item 316.1 of the Budget Act of 1978 (Ch. 359, Stats. 1978), excluding that portion allocated for adults in subparagraph (A) of paragraph (4) of subdivision (c).

(B) The balances of funds on June 30, 1977, restricted for meals for needy pupils for districts which levied no tax pursuant to Section 49502 of the Education Code in the 1977-78 fiscal year.

(C) One half of the amount of salary increases granted to classified employees of a school district in the fiscal years 1974-75 to 1979-80, inclusive, by the board of supervisors of a city and county.

(D) Any revenue limit increase authorized pursuant to Section 42244 which was not authorized to be levied prior to the 1979-80 fiscal year.

(4) Divide the amount determined in paragraph (3) by the sum of the 1978-79 second principal apportionment units of average daily attendance in the regular school year and in summer programs for graduating high school seniors. That amount shall be known as the school district's revenue limit per unit of average daily attendance for the 1978-79 fiscal year.

(5) The Superintendent of Public Instruction shall determine the statewide weighted mean revenue limit computed pursuant to paragraph (4) of this subdivision for the following groups of districts. For the purpose of this paragraph, "ADA" is the district's regular average daily attendance.

(A) Elementary districts with 100 or less units of ADA.

(B) Elementary districts with more than 100 and less than 901 units of ADA.

(C) High school districts with less than 301 units of ADA.

(D) Unified districts with less than 1,501 units of ADA.

(E) Elementary districts with greater than 900 units of ADA.

(F) High school districts with greater than 300 units of ADA.

(G) Unified districts with greater than 1,501 units of ADA.

(b) In the 1979-80 fiscal year, the county superintendent shall adjust each school district's revenue limit computed pursuant to subdivision (a) as follows:

(1) Divide the district's prior year revenue limit into the prior year's statewide weighted mean revenue limit for that type of district and multiply that result by the product of 0.086 and the amount determined in subparagraph (G) of paragraph (5) of subdivision (a).

(2) The amount determined in paragraph (1) shall be added to the district's 1978-79 fiscal year revenue limit computed pursuant to paragraph (4) of subdivision (a). That result shall be the district's revenue limit per unit of average daily attendance for the 1979-80 fiscal year.

(3) For purposes of computing school district revenue limits for the 1980-81 fiscal year pursuant to Section 42238, the amount computed pursuant to paragraph (2) shall be increased by the quotient of 50 percent of the amount of motor vehicle license fees distributed pursuant to Section 11003.4 of the Revenue and Taxation Code received by the district in the 1979-80 fiscal year divided by the number of units of average daily attendance determined in paragraph (1) of subdivision (c).

(c) The county superintendent shall determine the district's total revenue limit for the 1979-80 fiscal year by adding the following:

(1) The amount obtained by multiplying the revenue limit determined pursuant to subdivision (b) by the sum of the second principal apportionment regular average daily attendance, and the product of 0.6 multiplied by the summer average daily attendance for graduating high school seniors. For regional occupational centers and regional occupational programs and adult education programs and classes the fiscal year units of average daily attendance shall be

used.

(2) The amount determined pursuant to Sections 42239, 42241.7, 42243.6, 42245, and 46605.

(3) The amounts for meals for needy pupils determined in subparagraph (A) of paragraph (2) of subdivision (a) multiplied by 1.07, and adjusted for pupil participation.

(4) An amount for each unit of adult average daily attendance in the 1979-80 fiscal year for the programs specified in subdivision (b) of Section 41976 as follows:

(A) Determine for each district its 1978-79 fiscal year adult revenue limit per unit of average daily attendance computed pursuant to Sections 42244 and 43001.8 and subdivision (f) or (g) of Section 43001 as modified by the appropriate percentage in subdivision (c), (d), or (e) of Section 2 of Chapter 292 of the Statutes of 1978, as amended by Chapter 332 of the Statutes of 1978, as amended by Chapter 119 of the Statutes of 1979, plus the prorated amount allocated pursuant to Item 316.1 of the Budget Act of 1978 (Ch. 359, Stats. 1978) for adult programs.

(B) For districts with an adult revenue limit as determined in subparagraph (A) which is less than the 1978-79 fiscal year statewide average adult revenue limit computed pursuant to subparagraph (A), the adult revenue limit for the 1979-80 fiscal year shall be the amount determined in subparagraph (A) multiplied by 1.07.

(C) For districts with a revenue limit as determined in subparagraph (A) which is between the statewide average adult revenue limit computed pursuant to subparagraph (A) for the 1978-79 fiscal year and the product of 1.07 times that amount the adult revenue limit for the 1979-80 fiscal year shall be 1.07 times the 1978-79 fiscal year statewide average adult revenue limit.

(D) For districts with a revenue limit as determined in subparagraph (A) which is greater than 1.07 times the statewide average adult revenue limit computed pursuant to subparagraph (A) the amount computed pursuant to subparagraph (A) for the 1979-80 fiscal year shall be the amount determined in subparagraph (A) except that for any units of adult average daily attendance in excess of that reported for the second principal apportionment of the 1978-79 fiscal year, the adult revenue limit shall be 1.07 multiplied by the 1978-79 fiscal year statewide average adult revenue limit.

(E) To the amount computed in subparagraph (B), (C), or (D) shall be added the adjustments, if any, made pursuant to Sections 42243.6, 42245, and 46605.

(d) In no event shall the amount computed pursuant to this section be less than the product of 1.02 times the amount computed pursuant to Section 2 of Chapter 292 of the Statutes of 1978, as amended by Chapter 332 of the Statutes of 1978, and Chapter 119 of the Statutes of 1979, exclusive of funds expended for the purposes of child development programs and adjustments pursuant to Section 42245.

(e) The Superintendent of Public Instruction shall apportion to

each school district in the 1979–80 fiscal year the amount determined in this section less the sum of: (1) the district's property tax revenue received pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of the Revenue and Taxation Code; (2) the amount, if any, received pursuant to Part 18.5 (commencing with Section 38101) of the Revenue and Taxation Code; (3) the amount if any, received pursuant to Chapter 3 (commencing with Section 16140) of the Government Code; (4) prior year taxes and taxes on the unsecured roll; (5) 50 percent of the amount received pursuant to Section 41603.

SEC. 27. Section 42238 of the Education Code is amended to read:

42238. (a) For the 1980–81 fiscal year and each fiscal year thereafter the county superintendent of schools shall determine a revenue limit for each school district in the county pursuant to this section.

(b) For the 1980–81 fiscal year, each district with a revenue limit per unit of average daily attendance computed for the 1979–80 fiscal year pursuant to paragraph (2) of subdivision (b) of Section 42237, excluding any funds resulting from an adjustment pursuant to Section 42950 as it read prior to amendment by Chapter 238 of the Statutes of 1979, shall receive the maximum inflation adjustment if that revenue limit is less than the following amounts:

(1) Elementary districts with less than 101 units of average daily attendance, one thousand seven hundred dollars (\$1,700).

(2) Elementary districts with more than 100 units of average daily attendance, one thousand three hundred fifty dollars (\$1,350).

(3) High school districts with less than 301 units of average daily attendance, one thousand nine hundred dollars (\$1,900).

(4) High school districts with more than 300 units of average daily attendance, one thousand seven hundred dollars (\$1,700).

(5) Unified districts with less than 1,501 units of average daily attendance, one thousand five hundred twenty-five dollars (\$1,525).

(6) Unified districts with more than 1,500 units of average daily attendance, one thousand five hundred dollars (\$1,500).

For computation of revenue limits for the 1981–82 fiscal year and each fiscal year thereafter, the amounts specified in paragraphs (1) through (6) shall be cumulatively increased by the amount of the maximum inflation adjustment for the preceding fiscal year.

(c) For the 1980–81 fiscal year, each district with a revenue limit per unit of average daily attendance computed for the 1979–80 fiscal year pursuant to paragraph (2) of subdivision (b) of Section 42237 shall receive the minimum inflation adjustment if that revenue limit is more than the following amounts:

(1) Elementary districts with less than 101 units of average daily attendance, two thousand two hundred dollars (\$2,200).

(2) Elementary districts with more than 100 units of average daily attendance, one thousand eight hundred fifty dollars (\$1,850).

(3) High school districts with less than 301 units of average daily attendance, two thousand four hundred dollars (\$2,400).

(4) High school districts with more than 300 units of average daily attendance, two thousand two hundred dollars (\$2,200).

(5) Unified districts with less than 1,501 units of average daily attendance, two thousand twenty-five dollars (\$2,025).

(6) Unified districts with more than 1,500 units of average daily attendance, two thousand dollars (\$2,000).

For the computation of revenue limits for the 1981-82 fiscal year and each fiscal year thereafter, the amounts specified in paragraphs (1) through (6) shall be cumulatively increased by the amount of the difference between the maximum inflation adjustment prescribed in subdivision (d) for the preceding fiscal year and one hundred dollars (\$100).

(d) The maximum inflation adjustment shall be one hundred fifty dollars (\$150) for the 1980-81 fiscal year; one hundred thirty-nine dollars (\$139) for the 1981-82 fiscal year; one hundred thirty dollars (\$130) for the 1982-83 fiscal year; and, one hundred thirty-eight dollars (\$138) for the 1983-84 fiscal year and each fiscal year thereafter. The minimum inflation adjustment in each fiscal year shall be the amount of the maximum inflation adjustment reduced by sixty-five dollars (\$65).

(e) Utilizing the district revenue limit per unit of average daily attendance for the preceding fiscal year computed pursuant to paragraph (2) of subdivision (b) of Section 42237 or this section, as the case may be, the county superintendent of schools shall compute an inflation adjustment as follows:

(1) For districts with a revenue limit per unit of average daily attendance in the preceding fiscal year which was less than the amount specified in subdivision (b), the maximum inflation allowance plus an additional amount not to exceed twenty-five dollars (\$25) if the district will qualify for the maximum inflation adjustment in the next succeeding fiscal year.

(2) For districts with a revenue limit per unit of average daily attendance in the preceding fiscal year which was greater than the amount specified in subdivision (b), but less than the amount specified in subdivision (c), determine the difference between the prior year amount specified in subdivision (c) and the district's prior year revenue limit per unit of average daily attendance. Multiply that difference by 65 and divide that product by the difference between the prior year amounts specified in subdivisions (b) and (c). This result added to the minimum inflation adjustment specified in subdivision (d) shall be the inflation adjustment.

(3) For districts with a revenue limit per unit of average daily attendance in the preceding fiscal year which was equal to or greater than the amount specified in subdivision (c) the inflation adjustment shall be the minimum inflation adjustment specified in subdivision (d).

(f) The amount computed pursuant to subdivision (e) shall be added to the revenue limit per unit of average daily attendance computed pursuant to paragraph (2) of subdivision (b) of Section

42237, excluding any funds resulting from an adjustment pursuant to Section 42950 as it read prior to amendment by Chapter 238 of the Statutes of 1979, for the 1980-81 fiscal year, or the amount computed pursuant to this subdivision for the 1981-82 fiscal year and each fiscal year thereafter. This amount shall be known as the school district revenue limit per unit of average daily attendance for the fiscal year for which it was computed.

(g) The county superintendent of schools shall determine the district's total revenue limit for the current year by adding the following:

(1) The amount obtained by multiplying the revenue limit determined pursuant to subdivision (d) by the sum of the second principal apportionment regular average daily attendance and the product of 0.6 times the sum of the summer average daily attendance for graduating high school seniors and pupils participating in summer school programs in grades 7 to 12, inclusive, who do not meet the district's adopted proficiency standards.

(2) The amount determined pursuant to Sections 42239, 42241.7, and 42243.6.

(3) The amounts computed in the preceding fiscal year for meals for needy pupils programs multiplied by 1.06, and adjusted for pupil participation.

(4) The amount per unit of adult average daily attendance for the preceding fiscal year multiplied by the product of 1.06 and the number of units of adult average daily attendance for the programs specified in subdivision (b) of Section 41976; provided that in no event shall the amount per unit of adult average daily attendance exceed 1.06 times the prior year maximum.

(h) In no event shall the amount computed pursuant to this section in the 1980-81 fiscal year be less than the product of 1.02 times the amount computed pursuant to subdivision (d) of Section 42237.

(i) The Superintendent of Public Instruction shall apportion to each school district in the 1980-81 fiscal year and in each fiscal year thereafter, the amount determined in this section less the sum of:

(1) The district's property tax revenue received pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of the Revenue and Taxation Code.

(2) The amount, if any, received pursuant to Part 18.5 (commencing with Section 38101) of the Revenue and Taxation Code.

(3) The amount, if any, received pursuant to Chapter 3 (commencing with Section 16140) of the Government Code.

(4) Prior year taxes and taxes on the unsecured roll.

(5) Fifty percent of the amount received pursuant to Section 41603.

SEC. 27.5. Section 42238 of the Education Code, as amended by Section 45 of Assembly Bill No. 2196 of the 1979-80 Regular Session of the Legislature, is amended to read:

42238. (a) For the 1980-81 fiscal year and each fiscal year

thereafter the county superintendent of schools shall determine a revenue limit for each school district in the county pursuant to this section, excluding any funds resulting from an adjustment pursuant to Section 42950, as it read prior to its amendment by Chapter 238 of the Statutes of 1979.

(b) For the 1980-81 fiscal year, each district with a revenue limit per unit of average daily attendance computed for the 1979-80 fiscal year pursuant to paragraph (2) of subdivision (b) of Section 42237, shall receive the maximum inflation adjustment if that revenue limit is less than the following amounts:

- (1) Elementary districts with less than 101 units of average daily attendance, one thousand seven hundred dollars (\$1,700).
- (2) Elementary districts with more than 100 units of average daily attendance, one thousand three hundred fifty dollars (\$1,350).
- (3) High school districts with less than 301 units of average daily attendance, one thousand nine hundred dollars (\$1,900).
- (4) High school districts with more than 300 units of average daily attendance, one thousand seven hundred dollars (\$1,700).
- (5) Unified districts with less than 1,501 units of average daily attendance, one thousand five hundred twenty-five dollars (\$1,525).
- (6) Unified districts with more than 1,500 units of average daily attendance, one thousand five hundred dollars (\$1,500).

For computation of revenue limits for the 1981-82 fiscal year and each fiscal year thereafter, the amounts specified in paragraphs (1) through (6) shall be cumulatively increased by the amount of the maximum inflation adjustment for the preceding fiscal year.

(c) For the 1980-81 fiscal year, each district with a revenue limit per unit of average daily attendance computed for the 1979-80 fiscal year pursuant to paragraph (2) of subdivision (b) of Section 42237 shall receive the minimum inflation adjustment if that revenue limit is more than the following amounts:

- (1) Elementary districts with less than 101 units of average daily attendance, two thousand two hundred dollars (\$2,200).
- (2) Elementary districts with more than 100 units of average daily attendance, one thousand eight hundred fifty dollars (\$1,850).
- (3) High school districts with less than 301 units of average daily attendance, two thousand four hundred dollars (\$2,400).
- (4) High school districts with more than 300 units of average daily attendance, two thousand two hundred dollars (\$2,200).
- (5) Unified districts with less than 1,501 units of average daily attendance, two thousand twenty-five dollars (\$2,025).
- (6) Unified districts with more than 1,500 units of average daily attendance, two thousand dollars (\$2,000).

For the computation of revenue limits for the 1981-82 fiscal year and each fiscal year thereafter, the amounts specified in paragraphs (1) through (6) shall be cumulatively increased by the amount of the difference between the maximum inflation adjustment prescribed in subdivision (d) for the preceding fiscal year and one hundred dollars (\$100).

(d) The maximum inflation adjustment shall be one hundred fifty dollars (\$150) for the 1980–81 fiscal year; one hundred thirty-nine dollars (\$139) for the 1981–82 fiscal year; one hundred thirty dollars (\$130) for the 1982–83 fiscal year; and, one hundred thirty-eight dollars (\$138) for the 1983–84 fiscal year and each fiscal year thereafter. The minimum inflation adjustment in each fiscal year shall be the amount of the maximum inflation adjustment reduced by sixty-five dollars (\$65).

(e) Utilizing the district revenue limit per unit of average daily attendance for the preceding fiscal year computed pursuant to paragraph (2) of subdivision (b) of Section 42237 or this section, as the case may be, the county superintendent of schools shall compute an inflation adjustment as follows:

(1) For districts with a revenue limit per unit of average daily attendance in the preceding fiscal year which was less than the amount specified in subdivision (b), the maximum inflation allowance plus an additional amount not to exceed twenty-five dollars (\$25) if the district will qualify for the maximum inflation adjustment in the next succeeding fiscal year.

(2) For districts with a revenue limit per unit of average daily attendance in the preceding fiscal year which was greater than the amount specified in subdivision (b), but less than the amount specified in subdivision (c), determine the difference between the prior year amount specified in subdivision (c) and the district's prior year revenue limit per unit of average daily attendance. Multiply that difference by 65 and divide that product by the difference between the prior year amounts specified in subdivisions (b) and (c). This result added to the minimum inflation adjustment specified in subdivision (d) shall be the inflation adjustment.

(3) For districts with a revenue limit per unit of average daily attendance in the preceding fiscal year which was equal to or greater than the amount specified in subdivision (c) the inflation adjustment shall be the minimum inflation adjustment specified in subdivision (d).

(f) The amount computed pursuant to subdivision (e) shall be added to the revenue limit per unit of average daily attendance computed pursuant to paragraph (2) of subdivision (b) of Section 42237, excluding any funds resulting from an adjustment pursuant to Section 42950 as it read prior to amendment by Chapter 238 of the Statutes of 1979, for the 1980–81 fiscal year, or the amount computed pursuant to this subdivision for the 1981–82 fiscal year and each fiscal year thereafter. This amount shall be known as the school district revenue limit per unit of average daily attendance for the fiscal year for which it was computed.

(g) The county superintendent of schools shall determine the district's total revenue limit for the current year by adding the following:

(1) The amount obtained by multiplying the revenue limit determined pursuant to subdivision (f) by the sum of the second

principal apportionment regular average daily attendance and the product of 0.6 times the sum of the summer average daily attendance for graduating high school seniors and pupils participating in summer school programs in grades 7 to 12, inclusive, who do not meet the district's adopted proficiency standards. For regional occupational centers and regional occupational programs and adult education programs and classes the fiscal year units of average daily attendance shall be used.

(2) The amount determined pursuant to Sections 42239, 42241.7, and 42243.6.

(3) The amounts computed in the preceding fiscal year for meals for needy pupils programs multiplied by 1.06, and adjusted for pupil participation.

(4) The amount of the adult education block entitlement as follows:

(A) The adult education block entitlement shall be computed by multiplying the amount per unit of adult average daily attendance for the preceding fiscal year times the product of 1.06 and the number of units of adult average daily attendance for the programs specified in Section 41976, provided that in no event shall the amount per unit of adult average daily attendance exceed the district's prior year adult education revenue limit if it is greater than 1.06 times the prior year statewide average adult education revenue limit pursuant to subdivision (c) of Section 42237.

(B) In the event the district's adult education block entitlement computed pursuant to subparagraph (A) is greater than the following calculations, the following calculations shall be the maximum block entitlement that shall be apportioned to the district:

(i) Multiply the prior fiscal year adult average daily attendance for the programs specified in Section 41976 by 1.02.

(ii) Multiply the amount determined in paragraph (i) by the district's adult revenue limit per unit of average daily attendance for the current fiscal year.

(iii) This maximum block entitlement may be exceeded pursuant to the provisions of subparagraph (C) when unencumbered funds are reallocated.

(C) If the adult average daily attendance of a school district is less than the adult average daily attendance utilized to compute the funded district adult education block entitlement, the district shall receive an apportionment only for the actual average daily attendance generated. Any surpluses accrued as a result of average daily attendance not generated in a district's block entitlement shall be reallocated after the first principal apportionment by the Superintendent of Public Instruction for meeting specific needs or unanticipated growth in adult education, or both. The receipt of reallocated funds shall not be used for computational purposes for the district's block entitlement for subsequent years.

(D) The adult education block entitlement shall be deposited in a separate fund of the district to be known as the "adult education

fund." Moneys in an adult education fund can only be expended for adult education purposes.

Moneys received for programs other than adult education shall not be expended for adult education.

(E) Each school district which conducted adult education programs for substantially handicapped adults in activity centers, work activity centers, sheltered workshops, schools, state hospitals, and other community settings, shall set aside an amount of money from its adult education block entitlement equal to its current fiscal year revenue limit times the average daily attendance generated in these facilities in the 1979-80 fiscal year times 1.02. The school district shall operate classes in these facilities and shall use all funds set aside pursuant to this subparagraph exclusively for such classes.

(h) In no event shall the amount computed pursuant to this section in the 1980-81 fiscal year be less than the product of 1.02 times the amount computed pursuant to Section 42237, exclusive of adjustments pursuant to Section 42245.

(i) The Superintendent of Public Instruction shall apportion to each school district in the 1980-81 fiscal year and in each fiscal year thereafter, the amount determined in this section less the sum of:

(1) The district's property tax revenue received pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of the Revenue and Taxation Code.

(2) The amount, if any, received pursuant to Part 18.5 (commencing with Section 38101) of the Revenue and Taxation Code.

(3) The amount, if any, received pursuant to Chapter 3 (commencing with Section 16140) of the Government Code.

(4) Prior year taxes and taxes on the unsecured roll.

(5) Fifty percent of the amount received pursuant to Section 41603.

(6) The amount of motor vehicle license fees distributed pursuant to Section 11003.4 of the Revenue and Taxation Code.

SEC. 28. Section 42238.3 of the Education Code is repealed.

SEC. 29. Section 42241.3 of the Education Code is amended 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.

(C) The amount computed pursuant to subparagraph (B) shall be divided by the district's average daily attendance in programs of instruction in the home or hospital for pupils with temporary physical disabilities for the 1979-80 fiscal year.

(D) The amount computed pursuant to subparagraph (C) 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.

(E) The amount computed pursuant to subparagraph (D) shall be multiplied by the average daily attendance in such programs for the then current year.

SEC. 30. Chapter 11 (commencing with Section 42900) is added to Part 24 of the Education Code, to read:

#### CHAPTER 11. FOSTER CHILDREN EDUCATIONAL SERVICES

42900. (a) Whenever an elementary school, high school, or unified school district provides education, as described in subdivision (b), for children who reside in a regularly established licensed foster home, located within the boundaries of the district, pursuant to a commitment or placement under Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code, the district shall be reimbursed pursuant to this chapter.

(b) "Education" as used in subdivision (a) means those special educational programs approved by the Superintendent of Public Instruction during the 1977-78 or 1978-79 fiscal year pursuant to Section 42904 as it read during those fiscal years.

42901. For the 1979-80 fiscal year and each fiscal year thereafter,

each district operating a program pursuant to subdivision (b) of Section 42900 may increase its revenue limit by an amount equal to the excess cost of providing a special educational program for pupils less any federal or state allowances for such special program. The sum of such excess cost per unit of average daily attendance plus any income from state or federal government for such purposes shall not exceed the average income needed to provide special education for such pupils as determined by the Superintendent of Public Instruction. The amount determined by the superintendent for any school district which provided special educational programs for such pupils during the 1976-77 fiscal year shall not be less than the average level of support for such pupils during that fiscal year.

42902. This chapter shall remain in effect only until June 30, 1982, and is repealed, unless a later enacted statute, which is chaptered before June 30, 1982, deletes or extends such date.

SEC. 31. Section 46605 of the Education Code is repealed.

SEC. 32. Article 7 (commencing with Section 48310) of Chapter 2 of Part 27 of the Education Code is repealed.

SEC. 33. Section 51051 of the Education Code is repealed.

SEC. 34. Section 51502 of the Education Code is repealed.

SEC. 35. Section 56026 of the Education Code is amended to read: 56026. "Individuals with exceptional needs" means those persons who satisfy all the following:

(a) Identified by an individualized education program team as a handicapped child as that term was defined in subsection (1) of Section 1401 of Title 20 of the United States Code as it read July 1, 1980.

(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.

**SEC. 36.** Section 56040 of the Education Code is amended to read:  
**56040.** Every individual with exceptional needs, who is eligible to receive educational instruction, related services, or both under this part shall receive such educational instruction, services, or both, at no cost to his or her parents or, as appropriate, to him or her.

**SEC. 37.** Section 56100 of the Education Code is amended to read:  
**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 except a decision made pursuant to Chapter 5 (commencing with Section 56500).

(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.

(k) Perform the duties prescribed by Chapter 4.5 (commencing with Section 56450).

SEC. 38. Section 56133 of the Education Code is amended to read:  
56133. The superintendent shall provide for the mediation conference prescribed by Sections 56502 and 56503 and the state hearing prescribed by Section 56505.

SEC. 38.5. Section 56134 is added to the Education Code, to read:  
56134. The superintendent shall perform the duties prescribed by Chapter 4.5 (commencing with Section 5450).

SEC. 39. Section 56160 of the Education Code is amended to read:  
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, pursuant to Section 56157, provides special education and instruction to individuals with exceptional needs residing in licensed children's institutions.

SEC. 40. Section 56161 of the Education Code is amended to read:  
56161. Individuals with exceptional needs served under this article shall not be subject to the service proportions prescribed by Article 7 (commencing with Section 56760) of Chapter 7.

SEC. 41. Section 56170 of the Education Code is amended to read:  
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 of any other 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.

SEC. 42. Section 56195.1 of the Education Code is amended to read:

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. However, the superintendent shall not grant an extension to operate special education programs in accordance with those provisions relating to procedural safeguards and funding which were effective as of January 1, 1980.

SEC. 43. Section 56195.2 of the Education Code is amended to read:

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, in accordance with law effective as of January 1, 1980, 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.

(e) A district or county office previously approved for implementation of the master plan during fiscal year 1981-82 may choose to accelerate implementation of the master plan pursuant to Section 56195.4.

SEC. 44. Section 56195.3 of the Education Code is amended to read:

56195.3. A district or county office previously approved by the board for implementation of the master plan during fiscal year 1981-82 that chooses to continue execution of local policies pursuant to Section 56195.2 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.

SEC. 45. Section 56195.5 of the Education Code is amended to read:

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 November 15, 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.

SEC. 46. Section 56195.7 of the Education Code is amended to read:

56195.7. If any district 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.

SEC. 47. Section 56195.8 of the Education Code is amended to read:

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 not to exceed 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 amount received for pupils in nonpublic, nonsectarian schools and 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 or hospital for pupils with temporary physical disability pursuant to Section 42241.3. All districts and county offices shall receive state aid for pupils enrolled in nonpublic, nonsectarian schools pursuant to Section 56740 for the 1980-81 fiscal year.

(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.

SEC. 48. Section 56221 of the Education Code is amended to read:

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 or special education teacher's request, of the assignment of an individual with exceptional needs to his or her class and a mandatory meeting of the individualized education program team if the review indicates a change in the pupil's placement, instruction, related services, or any combination thereof. 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 and county governing board members in any due process hearing procedure activities conducted pursuant to, and consistent with, state and federal law.

SEC. 49. Section 56301 of the Education Code is amended to read:

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, screening, 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.

SEC. 50. Section 56320 of the Education Code is amended to read:

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 are not clearly 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 and development, vision, hearing, motor abilities, language function, general ability, academic performance, and social and emotional status. A developmental history is obtained, when appropriate.

SEC. 51. Section 56321 of the Education Code is amended to read:

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.

(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.

SEC. 52. Section 56322 of the Education Code is amended to read:

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 or assessments in the primary area of the suspected disability.

(b) Those persons assessing a pupil shall maintain a complete and specific record of diagnostic procedures and assessments employed, the instruments utilized, the conclusions reached, and the proposed education or treatment alternatives indicated by the assessment results.

SEC. 53. Section 56324 of the Education Code is amended to read:

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 made in accordance with Section 56320 and 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.

SEC. 54. Section 56327 of the Education Code is amended to read:

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 may need special education and related services.

(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 health and development, and medical findings, if any.

(f) For pupils with learning disabilities, 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.

SEC. 55. The heading of Article 2.5 (commencing with Section 56333) of Chapter 4 of Part 30 of the Education Code is amended to read:

**Article 2.5. Eligibility Criteria for Special Education and Related Services on the Basis of Language and Speech Disorder or Specific Learning Disabilities**

SEC. 56. Section 56333 of the Education Code is amended to read:

56333. A pupil shall be assessed as having a language or speech disorder 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 shall 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 a language or speech disorder and significantly affects educational performance.

SEC. 57. Section 56338 is added to the Education Code, to read: 56338. As used in Section 56337, "specific learning disability" includes, but is not limited to, disability within the function of vision which results in visual perceptual or visual motor dysfunction.

SEC. 58. Section 56341 of the Education Code is amended to read: 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 other than the pupil's teacher designated by administration who may be an administrator, program specialist, or other specialist who is knowledgeable of program options appropriate for the pupil and who is qualified to provide, or supervise the provision of, special education.

(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.

(e) The parent shall have the right to present information to the individualized education program team in person or through a representative and the right to participate in meetings relating to

eligibility for special education and related services, recommendations, and program planning.

SEC. 59. Section 56343 of the Education Code is amended to read:

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, instruction, services, or any combination thereof, as specified in the individualized educational program, is to be developed, changed or terminated.

(c) The pupil demonstrates a lack of anticipated progress.

(d) The parent or teacher 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.

SEC. 60. Section 56345 of the Education Code is amended to read:

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 related 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 and preparation for remunerative employment, additional vocational training, or additional career development opportunities, as appropriate.

(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.

SEC. 60.5. Section 56362 of the Education Code is amended to read:

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 simultaneously be assigned to

serve as resource specialists and to teach regular classes.

(f) Resource specialists shall not enroll a pupil for a majority of a schoolday without prior approval by the superintendent.

SEC. 61. Section 56363 of the Education Code is amended to read:

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 and nursing services.
- (13) Social worker services.
- (14) Specially designed vocational education and career development.

SEC. 62. Section 56364 of the Education Code is amended to read:

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 in 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.

SEC. 63. Section 56366 of the Education Code is amended to read: 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 special education and related services provided by nonpublic, nonsectarian schools or licensed children's institutions 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.

SEC. 63.5. Section 56366.5 is added to the Education Code, to read:

56366.5. (a) Upon receipt of a request from a nonpublic, nonsectarian school for payment for services provided under a contract entered into pursuant to Sections 56365 and 56366, the district, special education services region, or county office shall either (1) send a warrant for the amount requested within 45 days, or (2) notify the nonpublic, nonsectarian school within 10 working days of any reason why the requested payment shall not be paid.

(b) If the district, special education services region, or county office fails to comply with subdivision (a), the nonpublic, nonsectarian school may require the district, special education services region, or county office to pay an additional amount of 1½ percent of the unpaid balance per month until full payment is made. The district, special education services region, or county office may not claim reimbursement from the state for such additional amount pursuant to any provision of law, including any provision contained in Chapter 3 (commencing with Section 2201) of Part 4 of Division 1 of the Revenue and Taxation Code.

SEC. 64. Section 56368 of the Education Code is amended to read:

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 one or more areas of major handicapping conditions, in preschool handicapped, or career vocational development.

(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.

SEC. 65. Section 56369 of the Education Code is amended to read:

56369. 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.

SEC. 66. Section 56381 of the Education Code is amended to read:

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.

If the reassessment so indicates, a new individualized education program shall be developed.

SEC. 67. Chapter 4.5 (commencing with Section 56450) is added to Part 30 of the Education Code, to read:

#### CHAPTER 4.5. CAREER AND VOCATIONAL EDUCATION PROGRAMS AND FUNDING

56450. (a) To the extent that funding is available, the superintendent shall, by July 1, 1981, disseminate to districts, special education service regions, and county offices information relating to exemplary local and regional programs that deliver career and vocational education services to individuals with exceptional needs.

(b) The superintendent shall annually update and disseminate such information.

(c) Such information shall include, but not be limited to, descriptions of effective methods for coordinating career and vocational education services delivered by all the following, but not limited to, secondary schools, regional occupational centers and programs, community colleges, regional centers for the developmentally disabled, sheltered workshops, programs under the Comprehensive Employment and Training Act (P.L. 93-203), as

amended, programs under the Rehabilitation Act of 1973 (P.L. 93-516), as amended, and programs under the Vocational Education Act, (P.L. 94-482) as amended.

56451. The board shall, through the use of discretionary federal funds, encourage districts, special education services regions, and county offices to develop programs that coordinate career and vocational education services with other educational services for individuals with exceptional needs. Coordination includes, but is not limited to coordination among any of the entities and programs enumerated in subdivision (c) of Section 56401.

56452. The superintendent shall ensure that the state annually secures all federal funds available for vocational education of individuals with exceptional needs.

56453. The superintendent and the Department of Rehabilitation shall enter into an interagency agreement to ensure that the state annually secures all federal funds available under the Rehabilitation Act of 1973, as amended, and that coordination in applying for, distributing, and using funds available under the Vocational Education Act, as amended, the Rehabilitation Act of 1973, as amended, and the Education For All Handicapped Children Act of 1975, (P.L. 94-142), as amended, including, but not limited to, application for, and use thereof, be provided.

56454. In order to provide districts, special education service regions, and county offices with maximum flexibility to secure and utilize all federal funds available to enable such entities to meet the career and vocational needs of individuals with exceptional needs more effectively and efficiently, and to provide maximum federal funding to such agencies for the provision of such education the superintendent shall do all the following:

(a) Provide necessary technical assistance to districts, special education service regions, and county offices.

(b) Establish procedures for these entities to obtain available federal funds.

(c) Apply for necessary waivers of federal statutes and regulations including, but not limited to, those governing federal career and vocational education programs.

56455. The board shall, by February 1, 1982, report to the Legislature its findings and recommendations relating to improvement of career and vocational education programs for individuals with exceptional needs.

(b) The report shall include, but not be limited to, all of the following:

(1) Recommendations relating to the allocation of state and federal funds to county superintendents of schools and regional occupational centers and programs for providing career and vocational education programs for individuals with exceptional needs.

(2) Recommendations relating to procedures for effectively coordinating the resources of secondary and postsecondary

educational institutions to provide career and vocational education programs for individuals of exceptional needs.

(3) Recommendations relating to prevocational education and career development at both the elementary and secondary levels for individuals with exceptional needs.

56456. It is the intent of the Legislature that districts, special education service regions, and county offices may use any state or local special education funds for approved vocational programs, services, and activities to satisfy the excess cost matching requirements for receipt of federal vocational education funds for individuals with exceptional needs.

SEC. 68. Section 56501 of the Education Code is amended to read:

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.

(b) The due process hearing rights 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.

(c) In addition to the rights prescribed by subdivision (b), the parent has the following rights:

(1) The right to have the pupil who is the subject of the state hearing present at the hearing.

(2) The right to open the state hearing to the public.

SEC. 69. Section 56502 of the Education Code is amended to read:

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 legal 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 district superintendent, county 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.

SEC. 70. Section 56503 of the Education Code is amended to read:

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 district superintendent, the county superintendent, or the 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. A copy of the written resolution shall be mailed to each party within 10 days following the mediation conference. A copy shall also be filed with the Advisory Commission on Special Education.

(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 a mediator knowledgeable in the laws governing special education under contract with the department.

(h) Any mediation conference held pursuant to this section shall be held at a time and place reasonably convenient to the parent and pupil.

SEC 71. Section 56505 of the Education Code is amended to read:

56505. (a) The state hearing shall be conducted in accordance with regulations adopted by the board. 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.

SEC. 72. Section 56506 of the Education Code is amended to read: 56506. In addition to the due process hearing rights 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. The written notice of rights shall include, but not be limited to, those prescribed by Section 56341.

(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 unless the public education agency prevails in a due process hearing relating to such assessment.

(f) Written parental consent pursuant to Section 56321 shall be obtained before the pupil is placed in a special education program.

SEC. 73. Section 56602 of the Education Code is amended to read: 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.

(5) Program costs, including, but not limited to:

(A) Expenditures for instructional personnel services, support services, special transportation services, and regionalized services.

(B) Capital outlay costs at the district and school levels, and for special education services regions, county offices, state special schools, and nonpublic, nonsectarian schools.

(C) Funding sources at the district, special education services region, county office, state special school, and nonpublic, nonsectarian school levels.

(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, resource specialist, special day class or center, and nonpublic, nonsectarian schools, in accordance with criteria established by the board and consistent with federal reporting requirements.

SEC. 74. Section 56604 of the Education Code is amended to read:

56604. (a) The superintendent shall coordinate the design of school, district, county office, 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.

SEC. 75. Section 56609 of the Education Code is amended to read:

56609. The Legislative Analyst shall submit a report to the Legislature annually in 1981, 1982, and 1983, relating to all of the following:

(a) Audits conducted pursuant to Section 56735.

(b) The local general fund contribution prescribed by 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.

SEC. 76. Section 56712 of the Education Code is amended to read:

56712. From the sum computed pursuant to Section 56711 the county superintendent shall subtract all the following:

(a) The district 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.

SEC. 76.5. Section 56721 of the Education Code is amended to read:

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 based on the average number of hours actually worked per instructional aide per day.

(B) Average annual salaries and benefits for six hours of special education instructional aide time.

SEC. 77. Section 56722 of the Education Code is amended to read:

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. However, for the 1980-81 fiscal year only, each district and county office that continues, pursuant to Section 56195.2, to operate learning disability groups without aides shall use only the amount computed pursuant to subdivision (b) 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, aides providing designated instruction and services may be funded in lieu of a certificated specialist.

SEC. 78. Section 56723 of the Education Code is amended to read:

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 revenue limits of unified school districts with greater than 1,500 units of average daily attendance.

SEC. 79. Section 56724 of the Education Code is amended to read:

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 or county office shall use the statewide average unit rate for the then current fiscal year for that instructional personnel service.

SEC. 80. Section 56725 of the Education Code is amended to read:

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, the county superintendent shall 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.

SEC. 81. Section 56726 of the Education Code is amended to read:

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 the number of days in the regular school year.

(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:

(1) Divide the number of days taught in extended session for special classes or centers, not to exceed 55, by the number of days in the regular school year.

(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 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 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.

SEC. 82. Section 56728 of the Education Code is amended to read: 56728. Notwithstanding subdivision (d) of Section 56760, state aid for instructional personnel service units shall not exceed the number of units actually in operation for the then current fiscal year.

SEC. 83. Section 56735 of the Education Code is amended to read: 56735. (a) The superintendent shall 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).

SEC. 84. Section 56740 of the Education Code is amended to read:

56740. The superintendent shall apportion to each district and county office 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.

SEC. 85. Section 56751 of the Education Code is amended to read:

56751. The county superintendent shall compute an adjusted local general fund contribution amount for each district by subtracting the amount computed pursuant to subdivision (a) from the amount computed pursuant to subdivision (b).

(a) 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, contracting for nonpublic, nonsectarian school services, and earned on account of pregnant minors programs and programs to provide instruction in the home or hospital for pupils with temporary physical disabilities for the 1979-80 fiscal year.

(b) The district's total reported cost of operating special education programs and services exclusive of the costs of providing special transportation, contracting for nonpublic, nonsectarian school services, and providing pregnant minors programs and instruction in the home or hospital for pupils with temporary physical disabilities for the 1979-80 fiscal year.

SEC. 86. Section 56752 of the Education Code is amended to read:

56752. The amount computed pursuant to Section 56751 shall be divided by such district's second principal apportionment regular average daily attendance in the 1979-80 fiscal year.

SEC. 87. Section 56753 of the Education Code is amended to read:

56753. The amount computed pursuant to Section 56752 shall be multiplied by the second principal apportionment regular average daily attendance of such district for the then current fiscal year.

SEC. 88. Section 56754 of the Education Code is amended to read:

56754. The local general fund contribution for each district shall be the lesser of the amounts computed pursuant to Section 56751 or Section 56753.

SEC. 89. Section 56760 of the Education Code is amended to read:

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 the 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 funded by the state by instructional personnel service during the regular school year, including pupils for whom education and services are provided for by contract with nonpublic, nonsectarian schools, to the enrollment in kindergarten and grades 1 to 12, inclusive, shall not exceed 0.10.

(2) The ratio of pupils funded by the state by instructional personnel service to the enrollment in kindergarten and grades 1 to 12, inclusive, receiving a specific instructional service shall not exceed the following:

(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 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 (c) 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.

SEC. 90. Section 56761 of the Education Code is amended to read:

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 both prevent the provision of a free, appropriate public education and 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, and 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 inaccessibility for the district, special education services region, or county office.

(b) A school district, special education services region, or county office may request the superintendent to waive one or more of the maximum unit proportions set forth in Section 56760. Such request shall be granted only if it demonstrates that the increased cost of exceeding the standard in one instructional setting is offset by savings in another instructional setting.

SEC. 91. Section 56782 of the Education Code is amended to read:

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 the statewide average percentage inflation adjustment computed for revenue limits of unified school districts with greater than 1,500 units of average daily attendance.

SEC. 92. Section 11 of Chapter 797 of the Statutes of 1980 is amended to read:

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, and Article 8.5 (commencing with Section 56775) 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. 93. For the 1980-81 fiscal year, there is hereby appropriated from the Federal Trust Fund to the Department of Education the sum of thirty-five thousand dollars (\$35,000) for purposes of Chapter

4.5 (commencing with Section 56450) of Part 30 of the Education Code.

SEC. 94. The Superintendent of Public Instruction may, upon approval of the Department of Finance, certify to the Controller and the Controller shall transfer up to twenty million dollars (\$20,000,000) of the funds appropriated pursuant to category (b) of Item 352 of the Budget Act of 1980 for the purpose of making allowances pursuant to Chapter 797 of the Statutes of 1980.

SEC. 95. The Superintendent of Public Instruction may, upon approval of the Department of Finance, certify to the Controller and the Controller shall transfer up to forty-four million dollars (\$44,000,000) of the unencumbered balance of the funds appropriated pursuant to Chapter 797 of the Statutes of 1980 for the purposes of category (a) of Item 352 of the Budget Act of 1980.

SEC. 96. Notwithstanding any other provision of law, the unencumbered balance of the appropriation made by Section 85 of Chapter 323 of the Statutes of 1976 shall be available for expenditure in fiscal year 1980-81, and Section 19.2 of Chapter 510 of the Statutes of 1980 shall have no force or effect.

SEC. 97. For the 1980-81 fiscal year, school districts and offices of the county superintendents of schools that contract with sheltered workshops for occupational training pursuant to Section 56072 of the Education Code as it read prior to July 28, 1980, the operative date of Chapter 797 of the Statutes of 1980, may be reimbursed from Section A of the State School Fund as provided by paragraph (1) of subdivision (a) of Section 11 of Chapter 797 for costs not to exceed two hundred seven thousand nine hundred seventy-two dollars (\$207,972).

SEC. 97.5. From the appropriation made by Section 23 of Chapter 798 of the Statutes of 1980 to the Department of Education, three hundred eighty-one thousand five hundred dollars (\$381,500) of the unallocated and unencumbered funds is reappropriated to the Department of Social Services for purposes of continued full-year funding in fiscal year 1980-81 of four respite care projects, under Chapter 2 (commencing with Section 8200) of Part 6 of the Education Code.

SEC. 98. It is the intent of the Legislature, if this bill and Assembly Bill 2196 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 41601 of the Education Code, and this bill is chaptered after Assembly Bill 2196, that Section 41601 of the Education Code, as amended by Section 37.5 of Assembly Bill 2196, be further amended on the effective date of this act in the form set forth in Section 9.5 of this act to incorporate the changes in Section 41601 proposed by this bill. Therefore, if this bill and Assembly Bill 2196 are both chaptered and become effective on or before January 1, 1981, and Assembly Bill 2196 is chaptered before this bill and amends Section 41601, Section 9.5 of this act shall become operative on the effective date of this act and Section 9 of this act shall not become operative.

SEC. 99. It is the intent of the Legislature, if this bill and Assembly Bill 2196 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 42237 of the Education Code, and this bill is chaptered after Assembly Bill 2196, that Section 42237 of the Education Code, as amended by Section 42 of Assembly Bill 2196, be further amended on the effective date of this act in the form set forth in Section 26.5 of this act to incorporate the changes in Section 42237 proposed by this bill. Therefore, if this bill and Assembly Bill 2196 are both chaptered and become effective on or before January 1, 1981, and Assembly Bill 2196 is chaptered before this bill and amends Section 42237, Section 26.5 of this act shall become operative on the effective date of this act and Section 26 of this act shall not become operative.

SEC. 100. It is the intent of the Legislature, if this bill and Assembly Bill 2196 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 42238 of the Education Code, and this bill is chaptered after Assembly Bill 2196, that Section 42238 of the Education Code, as amended by Section 45 of Assembly Bill 2196, be further amended on the effective date of this act in the form set forth in Section 27.5 of this act to incorporate the changes in Section 42238 proposed by this bill. Therefore, if this bill and Assembly Bill 2196 are both chaptered and become effective on or before January 1, 1981, and Assembly Bill 2196 is chaptered before this bill and amends Section 42238, Section 27.5 of this act shall become operative on the effective date of this act and Section 27 of this act shall not become operative.

SEC. 101. 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. 102. 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 allow the provisions of this act to be operative at the earliest possible time so as to coordinate their implementation during the 1980-81 fiscal year with other provisions of the law, including recently enacted provisions, it is necessary that this act take effect immediately.

## CHAPTER 1354

An act to amend Sections 2553, 16301, 17762, 33403, 33502, 33508, 33509, 33510, 33511, 33513, 33514, 33522, 37062, 39146, 39384, 39510, 39619, 41301, 41601, 41604, 41841.5, 41972, 41976, 42123, 42237, 42237.6, 42238, 42240, 42243.5, 42243.7, 46613, 46616, 49531, 49553, 52302.9, 52321, 52324, 52324.5, 81136, 84704, 84720, and 84721 of, to add Sections 2552.5, 12515.5, 17717.5, 17724.5, 17730.2, 41060, 41760.2, 41976.5, 42237.7, 42243.8, 44988, 52213.5, and 54060 to, and to repeal Sections 1705, 2505, 12516, 14070, 14071, 14072, 16302, 16303, 33515, 33517, 33520, 33521, 37062.5, 37063, 37064, 37065.4, 37065.5, 37066, 37067, 37068, 37070, 37071, 37072, 37080, 37081, 37082, 37083, 42210, 42211, 42212, 42213, 42237.6, 46146, 46601, 46605, 46606, 46608, 46610, 46614, 46617, 52317, and 58608 of, the Education Code, to amend Sections 65979 and 65980 of the Government Code, and to amend Section 96 of Chapter 282 of the Statutes of 1979, relating to state and local government, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Approved by Governor September 30, 1980 Filed with  
Secretary of State September 30, 1980 ]

I am deleting the appropriations and related language contained in Section 37 74 of Assembly Bill No 2196 for the education of adults in correctional facilities Since the 1980 Budget Act contains \$1,080,000 for these costs, this bill would have provided double funding for this program in 1980-81

I am also eliminating the \$1,000,000 appropriation contained in Section 67 5 of AB 2196 for the mandated local costs associated with Assembly Bill No 3369 This appropriation would duplicate the appropriation contained in AB 3369 for the same purpose

With these reductions, I approve Assembly Bill No 2196.

EDMUND G BROWN JR., Governor

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

SECTION 1. Section 1705 of the Education Code is repealed.

SEC. 2. Section 2505 of the Education Code is repealed.

SEC. 2.3. Section 2552.5 is added to the Education Code, to read:

2552.5. For purposes of Section 2504 and subdivision (b) of Section 2552, the second condition imposed upon the use of the proceeds for the construction of administration facilities or centers specified in Section 2504 shall not apply for the entire 1979-80 fiscal year and fiscal years thereafter to a county superintendent of schools in a county in which the county board of education became fiscally independent on July 1, 1966.

SEC. 2.5. Section 2553 of the Education Code is amended to read:

2553. For major capital outlay projects or major repair or replacement projects, which cannot be funded by other revenue sources, county superintendents of schools shall be eligible for such funds in the same manner as specified by law for school districts. Any funds apportioned to the county superintendent pursuant to this section shall be restricted to the purposes of this section.

SEC. 4. Section 12515.5 is added to the Education Code, to read:  
12515.5. For the 1981-82 fiscal year and each fiscal year thereafter, funding for the purpose of payment of annual dues for the support of the Educational Commission of the States shall be provided within the annual Budget Act appropriation to the Department of Education.

SEC. 5. Section 12516 of the Education Code is repealed.

SEC. 6. Section 14070 of the Education Code is repealed.

SEC. 7. Section 14071 of the Education Code is repealed.

SEC. 8. Section 14072 of the Education Code is repealed.

SEC. 8.1. Section 16301 of the Education Code is amended to read:

16301. (a) It is the intent of the Legislature in enacting this article to finance the capital expenditures involved in the construction, equipping, and establishment of a regional occupational center to be maintained by the Stockton Unified School District, to serve an area in great need of occupational preparation. It is the further intent of the Legislature, by this article, to improve the employment opportunities of persons residing in areas of need for such training by providing educational programs of a nature that will serve the social and economic needs of that area. The program provided will also serve to upgrade the cultural and intellectual life, as well as the economic life, of the area to be served.

(b) The governing board of any school district maintaining a high school may, pursuant to Section 52301, cooperate with the Stockton Unified School District in the establishment and maintenance of the regional occupational center.

(c) In conjunction with the regional occupational center, regional occupational programs may be established in the Stockton Unified School District and in participating school districts.

(d) The cooperation in the establishment and maintenance of a regional occupational center pursuant to subdivision (b) and the establishment and maintenance of regional occupational programs pursuant to subdivision (c), may be undertaken pursuant to Article 1 (commencing with Section 6500) of Chapter 5 of Division 7 of Title 1 of the Government Code.

(e) Notwithstanding subdivisions (b), (c), and (d), the Stockton Unified School District has the sole duty to the state to operate and manage the regional occupational center and any regional occupational program authorized by this article.

(f) The amount computed for the Stockton Unified School District pursuant to subdivision (a) of Section 42233 shall be deemed to have been increased by the amount raised within the Stockton Unified School District for the support of a regional occupational center and program, except capital outlay expenditures, maintained during the 1972-73 fiscal year by the county superintendents of schools. The other computations required by Article 2 (commencing with Section 42230) of Chapter 7 of Part 24 of Division 3 of Title 2 shall be adjusted to appropriately reflect such increase. The revenue

limit applicable to the county superintendent of schools shall be reduced by an amount equal to the increase in the revenue limit of the Stockton Unified School District made pursuant to this subdivision.

SEC. 8.2. Section 16302 of the Education Code is repealed.

SEC. 8.3. Section 16303 of the Education Code is repealed.

SEC. 8.5. Section 17717.5 is added to the Education Code, to read:

17717.5. The board may approve, in whole or in part, an application submitted by a school district under Section 17717 or 17720 in such amount not exceeding the amount applied for as the board may deem appropriate.

The board may, upon approval of the application, in whole or in part, and subsequently from time to time, make additional approvals not exceeding in the aggregate the total amount determined by the board as aforesaid for such portion or portions of the project for which the board determines the district is ready to proceed.

SEC. 8.7. Section 17724.5 is added to the Education Code, to read:

17724.5. Upon request of any school district, the Department of Education shall provide assistance in the evaluation and utilization of existing school facilities and the justification of the need for school sites, new facilities, and the rehabilitation or replacement of existing facilities, in accordance with board regulations.

SEC. 8.8. Section 17730.2 is added to the Education Code, to read:

17730.2. Notwithstanding any other provision to the contrary, all lease agreements shall terminate 40 years from the date of execution and title to the property covered therein shall revert to the district as though full payment had been made.

SEC. 8.9. Section 17762 of the Education Code, as proposed by Assembly Bill No. 2973 of the 1979-80 Regular Session of the Legislature, is amended to read:

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 a lease executed on or before July 1, 1974, with a term of 10 years, was leased to a city with a population of less than 100,000 for park purposes, was improved at city expense, and used for public park purposes.

Prior to January 1, 1981, no surplus school site which, on August 20, 1980, was subject to a lease described in this section, shall be sold, leased, or otherwise disposed of by the school district owning such site except upon the terms and conditions of such lease.

SEC. 9. Section 33403 of the Education Code is amended to read:

33403. The Department of Education shall perform evaluations of educational programs in accordance with the following:

(a) An individual program evaluation contains information describing the objectives and components of the program, the number of pupils involved, the program's cost and its effectiveness.

The department shall prepare or have prepared individual program evaluations for the following programs in accordance with

the schedule specified:

(1) Demonstration programs in intensive instruction, pursuant to Chapter 4 (commencing with Section 58600) of Part 31, biennially commencing with the 1979–80 academic year;

(2) Vocational education programs, pursuant to Chapter 1 (commencing with Section 8000) of Part 6, annually.

(b) A descriptive report of an individual educational program describes the objectives and components of the subject program, the number of pupils involved, and general information regarding the program's cost and the extent of the program's implementation.

The department shall prepare or have prepared descriptive reports for all of the following programs in accordance with the schedule specified:

(1) Indian education centers, pursuant to Article 6 (commencing with Section 33380) of Chapter 3 of Part 20, biennially commencing in the 1978–79 academic year.

(2) Professional development centers, pursuant to Article 10 (commencing with Section 44630) of Chapter 3 of Part 25, biennially commencing in the 1978–79 academic year.

(3) Bilingual teacher corps pursuant to Article 2 (commencing with Section 52150) of Chapter 6 of Part 28, biennially commencing in the 1979–80 academic year.

(4) Child development programs, pursuant to Chapter 2 (commencing with Section 8200) of Part 6, annually.

(5) Bilingual education programs, pursuant to Article 1 (commencing with Section 52100) of Chapter 7 of Part 28, annually.

(6) Alternative school programs, pursuant to Chapter 3 (commencing with Section 58500) of Part 31, biennially commencing in the 1979–80 academic year.

(7) Private schools for the handicapped, pursuant to Article 3 (commencing with Section 56030) of Chapter 1 of Part 30 biennially commencing in the 1979–80 academic year.

(c) A multiple-funded program evaluation, consisting of a comprehensive evaluation of the impact on a local school site of educational programs which are financed by multiple state or federal sources.

The Department of Education shall report to the Legislature on all of the following programs:

(1) School improvement programs, pursuant to Chapter 6 (commencing with Section 52000) of Part 28.

(2) Educationally disadvantaged youth programs, pursuant to Chapter 1 (commencing with Section 54000) of Part 29.

(3) Compensatory education, pursuant to Article 2 (commencing with Section 54420) of Chapter 4 of Part 29.

(4) Bilingual education programs, pursuant to Article 1 (commencing with Section 52100) of Chapter 7 of Part 28.

(5) Miller-Unruh reading programs, pursuant to Article 3 (commencing with Section 60640) of Chapter 5 of Part 33.

Such report shall contain information obtained, when possible, by

scientific sampling regarding pupil growth in the subject program, information regarding the expected achievement of comparable groups of pupils who do not receive specialized educational services, information regarding program costs, and inferential judgments regarding the effectiveness of the programs. An objective of such evaluation shall be to illustrate the relative effectiveness of different program elements regardless of source of funding. The evaluation shall identify those programs which are judged to be least effective.

For each of the funding sources identified in the multiple-funded evaluation report, the evaluation shall include a separate chapter which will present data from schools funded solely by that source. Each of these chapters will provide, to the extent possible, information regarding pupil growth, the expected achievement of comparable groups of pupils, information regarding program costs, and inferential judgments regarding the quality of programs funded by that source.

SEC. 10. Section 33502 of the Education Code is amended to read: 33502. There is in the state government the Educational Innovation and Planning Commission consisting of a Member of the Assembly appointed by the Speaker of the Assembly, a Member of the Senate appointed by the Senate Committee on Rules, one public member appointed by the Speaker of the Assembly, one public member appointed by the Senate Committee on Rules, one public member appointed by the Governor, and 15 public members appointed by the State Board of Education upon the recommendation of the Superintendent of Public Instruction or the members of the State Board of Education.

The 15 public members appointed by the State Board of Education shall be broadly representative of the cultural and educational resources of the state and the public, including at least one individual from each of the following categories:

- (a) Classroom teachers at the elementary level.
- (b) Classroom teachers at the secondary level.
- (c) Principals, superintendents, and other professional employees of local educational agencies and private schools.
- (d) Teachers from institutions of higher education.
- (e) School librarians, personnel involved in operating media programs in local schools, and guidance counselors.
- (f) Individuals from fields of professional competence in dealing with children needing special education because of physical or mental handicaps, specific learning disabilities, severe educational disadvantages, and limited English proficiency or because they are gifted or talented, and individuals from fields of professional competence in guidance and counseling.
- (g) Parents, senior class high school students, and other interested members of the public.
- (h) Leaders from private industry.

The State Board of Education upon recommendation from the Superintendent of Public Instruction may add to the 15 public

members of the commission as required to fully conform to federal legislation and regulations.

SEC. 11. Section 33508 of the Education Code is amended to read:

33508. Commission members shall serve for four-year terms and shall be eligible to serve more than one full term, except in the case of student representatives who shall serve a one-year term.

SEC. 12. Section 33509 of the Education Code is amended to read:

33509. As used in this article:

(a) "Commission" means the Educational Innovation and Planning Commission.

(b) "Title IV" means Title IV, Parts A, B, C, and D of the Educational Amendments of 1978 (Public Law 95-561) as amended.

(c) "State plan" means the plan for the use of Title IV funds as approved by the State Board of Education.

(d) "Secondary schools," notwithstanding Section 52, shall not include community colleges.

(e) "Local educational agency" means the governing body of any school district, county office of education, or state special school.

SEC. 13. Section 33510 of the Education Code is amended to read:

33510. For purposes of this article, the commission shall have the powers, duties, and responsibilities of a state advisory council prescribed in Title IV.

SEC. 14. Section 33511 of the Education Code is amended to read:

33511. The commission may do all of the following:

(a) Advise the state educational agency on the preparation of, and policy matters arising in the administration of, the state plan, including the development of criteria for the distribution of funds and the approval of applications for assistance under Title IV.

(b) Assist the State Board of Education and the Department of Education in the planning, development, and improvement of educational programs.

(c) Evaluate all programs and projects assisted under Title IV.

(d) Prepare at least every three years and submit through the state educational agency a report of its activities, recommendations, and evaluations, together with such additional comments as the state educational agency deems appropriate, to the United States Commissioner of Education.

SEC. 15. Section 33513 of the Education Code is amended to read:

33513. The State Board of Education shall allocate funds under Title IV, Part C, to provide to the extent feasible a geographical spread of experimental projects in the state. All such grants for a particular project shall be limited to a five-year period.

SEC. 16. Section 33514 of the Education Code is amended to read:

33514. The State Board of Education shall annually allocate, insofar as practicable, 15 percent of the total amount of federal funds received by the State of California pursuant to Title IV, Part C for special education projects.

SEC. 17. Section 33515 of the Education Code is repealed.

SEC. 18. Section 33517 of the Education Code is repealed.

SEC. 19. Section 33520 of the Education Code is repealed.

SEC. 20. Section 33521 of the Education Code is repealed.

SEC. 21. Section 33522 of the Education Code is amended to read:

33522. The State Board of Education shall reserve not more than 15 percent of the state's federal allocation under Title IV, Part C, for grants to the local educational agencies which have operated exemplary projects during the preceding year. Such funds shall be used by such local educational agencies to expand the projects locally and for diffusion of such successful projects statewide. A local education agency whose project is selected for diffusion is hereby designated as agent for all local education agencies in California for purposes of ESEA Title IV, Part C, diffusion.

SEC. 22. Section 37062 of the Education Code is amended to read:

37062. The governing board of any elementary school district situated within a high school district maintaining a junior high school shall permit pupils who have completed the sixth year of the elementary school to attend the junior high school.

SEC. 23. Section 37062.5 of the Education Code is repealed.

SEC. 24. Section 37063 of the Education Code is repealed.

SEC. 25. Section 37064 of the Education Code is repealed.

SEC. 26. Section 37065.4 of the Education Code is repealed.

SEC. 27. Section 37065.5 of the Education Code is repealed.

SEC. 28. Section 37066 of the Education Code is repealed.

SEC. 29. Section 37067 of the Education Code is repealed.

SEC. 30. Section 37068 of the Education Code is repealed.

SEC. 31. Section 37070 of the Education Code is repealed.

SEC. 32. Section 37071 of the Education Code is repealed.

SEC. 33. Section 37072 of the Education Code is repealed.

SEC. 34. Section 37080 of the Education Code is repealed.

SEC. 35. Section 37081 of the Education Code is repealed.

SEC. 36. Section 37082 of the Education Code is repealed.

SEC. 37. Section 37083 of the Education Code is repealed.

SEC. 37.1. Section 39146 of the Education Code is amended to read:

39146. The application shall be accompanied by a filing fee in amounts as determined by the Department of General Services based on the estimated cost according to the following schedule:

(a) For the first one million dollars (\$1,000,000), a fee of not more than 0.7 percent of the estimated cost.

(b) For all costs in excess of one million dollars (\$1,000,000), a fee of not more than 0.6 percent of the estimated cost.

The minimum fee in any case shall be two hundred fifty dollars (\$250). If the actual cost exceeds the estimated cost by more than 5 percent, a further fee shall be paid to the Department of General Services, based on the above schedule and computed on the amount by which the actual cost exceeds the amount of the estimated cost.

SEC. 37.2. Section 39384 of the Education Code is amended to read:

39384. (a) It is the intent of the Legislature that school districts be authorized under specified procedures to make vacant classrooms in operating schools available for rent or lease to other school 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 school district may, and the governing board of each school district, prior to the 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 school buildings or space in school buildings which is not needed for school purposes.

(d) A district advisory committee shall consist of not less than seven nor more than 11 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) Teachers and administrators.

(5) Parents of students.

(6) Persons with expertise in environmental impact, legal contracts, building codes, and land use planning.

(e) The district advisory committee shall:

(1) Review the projected school 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.

(g) In the case of a lease or rental to a private educational institution for the purpose of offering summer school in a facility of the district used under a lease or agreement entered into pursuant to Section 39470, the governing board of any school district may elect not to appoint an advisory committee pursuant to subdivision (c).

SEC. 37.23. Section 39401 of the Education Code, as added by Chapter 736 of the Statutes of 1980, is amended to read:

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 a lease executed on or before July 1, 1974, with a term of 10 years, was leased to a city of under 100,000 population for park purposes, was improved at city expense, and used for public park purposes.

SEC. 37.25. Section 39510 of the Education Code is amended to read:

39510. The governing board of any school district may sell any personal property or school supplies belonging to the district to the federal government or its agencies, to the state, to any county, city and county, city or special district, or to any other school district or any agency eligible under the federal surplus property law, (40 U.S.C., Sec. 484(j) (3)) and the governing board of another school district may purchase the property, for an amount equal to the cost thereof plus the estimated cost of purchasing, storing, and handling the property, without advertisement for or receipt of bids or compliance with any other provisions of this code. The governing board of any school district may purchase any personal property or school supplies for the purpose of selling them, pursuant to this section.

This section does not authorize the purchase, for the purpose of resale, of standard school supplies and equipment by any elementary school district governed by school trustees.

SEC. 37.3. Section 39619 of the Education Code is amended to read:

39619. (a) Whenever a school district has budgeted, exclusive of state matching funds and district funds previously matched pursuant to subdivision (b), in its deferred maintenance fund established

pursuant to Section 39618 an amount equal to, or greater than, that amount the district expended from its general fund for major maintenance, repair, or modernization of existing school buildings, as specified in Section 39618, exclusive of categorical aid funds, in either the 1978-79 or 1979-80 fiscal year, adjusted annually to the current fiscal year in conformance with the percentage change in the district revenue limit computed pursuant to subdivision (f) of Section 42238, the Superintendent of Public Instruction shall so certify to the State Allocation Board.

(b) The State Allocation Board shall apportion, from the State School Deferred Maintenance Fund, to school districts an amount equal to one dollar (\$1) for each one dollar (\$1) of local funds up to a maximum of  $\frac{1}{2}$  percent of the total general funds budgeted by the district for the fiscal year, exclusive of any amounts budgeted for capital outlay or debt service, to the extent of funds available pursuant to Chapter 24 (commencing with Section 17780).

SEC. 37.45. Section 41060 is added to the Education Code, to read:

41060. (a) The enactment of Article XIII A of the California Constitution by the voters of California at the June 6, 1978, primary election severely reduced the property taxing authority of local school districts. The California Legislature has replaced that local property taxing authority with state revenues derived from state taxing authority. It is the intent of the Legislature that local property tax revenues replaced by state funds are to continue to be considered local effort for purposes of federal grants pursuant to Public Law 81-874.

(b) For purposes of computing federal grants pursuant to Public Law 81-874 which requires a local tax effort or maintenance of effort, the fiscal year 1977-78 shall be used as a base year. The percentage of local effort for fiscal year 1977-78 shall be calculated as follows:

(1) The total amount of state and local funds earned by school districts, as determined by Article 2 (commencing with Section 42230) of Chapter 7 of Part 24 as it read prior to repeal by Chapter 282 of the Statutes of 1979 shall be divided into the amount of local tax receipts including tax relief subventions.

(2) The resultant percentage shall be used as the percent of local effort or contribution.

SEC. 37.46. 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-six dollars and ninety-five cents (\$26.95) 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 ninety-nine cents (\$0.99) 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.

(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. 37.5. Section 41601 of the Education Code is amended to read:

41601. For the purposes of this chapter, the governing board of each school district shall report to the Superintendent of Public Instruction during each fiscal year the average daily attendance of the district for all full school months during (1) the period between July 1st and December 31st, inclusive, to be known as the "first period" report for the first principal apportionment, and (2) the period between July 1st and April 15th, inclusive, to be known as the "second period" report for the second principal apportionment. The county superintendent of schools shall report the average daily attendance for the schools and classes maintained by him or her and the average daily attendance for the county school tuition fund. If the average daily attendance in the district or in schools and classes maintained by the county superintendent of schools for the period of time between July 1st and June 30th is greater or lesser than the average daily attendance reported for the second period report, the appropriate increases and decreases in the several categories of attendance for which separate foundation programs are required to be computed shall be recomputed on the basis of the foundation program and assessed valuation of the fiscal year in which such increases and decreases in average daily attendance were applicable and the appropriate increases and decreases in apportionments shall be added or withheld in the next succeeding fiscal year pursuant to Section 41341.

Each report shall be prepared in accordance with instructions on forms prescribed and furnished by the Superintendent of Public Instruction and average daily attendance shall be computed in the following manner:

(a) The average daily attendance in the regular elementary, junior high, and high schools, including continuation schools and classes and opportunity schools and classes, maintained by the school districts shall be determined by dividing the total number of days of attendance allowed in all full school months in each period, by the number of days such schools are actually taught in all full school months in each period, exclusive of Saturdays or Sundays.

(b) The average daily attendance in summer school and outdoor science and conservation education classes maintained during the

period between the last day the regular day schools are in session during the preceding year and the first day the regular day schools are in session during the current year shall be reported on both the first period and second period reports. Such average daily attendance shall be computed by dividing the days of attendance allowed by 175.

(c) The attendance for schools and classes maintained by the county superintendent of schools and the county school tuition fund shall be reported in the same manner as reported by school districts. The average daily attendance of the school, shall be determined by dividing the total number of days of attendance in all full school months in the first period by a divisor of 70, in the second period by 135 and at annual time by 175.

(d) The days of attendance in classes for adults and regional occupational centers programs shall be reported in the same manner as all other attendance under subdivision (a) or (b). The average daily attendance in such schools and classes shall be determined by dividing the total number of days of attendance in all full school months in the first period by a divisor of 85 in the second period by 135 and at annual time by 175.

SEC. 37.6. Section 41604 of the Education Code is amended to read:

41604. "Miscellaneous funds" as used in Section 41603 means the amount the county superintendent of schools has determined and reported to the Superintendent of Public Instruction in accordance with regulations the Superintendent of Public Instruction are hereby authorized to adopt that the district has received and which has been deposited to the credit of the general fund of the district for a fiscal year on account of in-lieu taxes or income from bonuses or royalties. Federal forest reserve funds, potash and potassium royalties received pursuant to United States federal mineral deposits, and motor vehicle license fees distributed pursuant to Section 11003.4 of the Revenue and Taxation Code received by a district shall not be considered miscellaneous funds as defined by this section.

SEC. 37.7. Section 41760.2 is added to the Education Code, to read:

41760.2. On or before November 15 of each year, the county auditor of each county shall furnish to the Superintendent of Public Instruction the calculated amount of secured tax receipts, the calculated amount of unsecured tax receipts, estimated prior year tax receipts, and estimated timber tax receipts of each school district or portion of school district situated within his or her county. On or before August 15, after close of each fiscal year, the county auditor of each county shall furnish to the Superintendent of Public Instruction actual secured tax receipts, actual unsecured tax receipts, actual prior year tax receipts, actual timber tax receipts, and any other appropriate taxes or subventions of each school district or portion of school district situated within his or her county. This information shall be forwarded on forms prescribed by the

Superintendent of Public Instruction.

SEC. 37.74. Section 41841.5 of the Education Code is amended to read:

41841.5. (a) The Superintendent of Public Instruction shall allow to each school district maintaining secondary schools an amount equal to the actual current expense of the district of maintaining adult education classes for prisoners in any county jail, or any county industrial farm or county or joint county road camp for the current fiscal year. The amount so allowed to a district for each unit of average daily attendance in such classes shall in no event exceed the statewide average revenue limit for adults multiplied by 0.8.

Each school district shall receive advanced apportionments as authorized by Sections 41330, 41332, and 41335 on the basis of the cost data report of the district for the preceding fiscal year and each district shall file a preliminary cost data report based upon estimated current expenses.

For purposes of this section, the Superintendent of Public Instruction shall, by rules and regulations, establish minimum standards for the conduct of the adult education classes, including, but not necessarily limited to, attendance requirements and requirements concerning records to be kept and reports to be submitted.

(b) There is hereby appropriated from the General Fund to Section A of the State School Fund the following sums for the following fiscal years for the purposes of subdivision (a):

- (1) For the 1980-81 fiscal year ..... \$1,020,100
- (2) For the 1981-82 fiscal year and  
each fiscal year thereafter..... \$1,113,000

Commencing with the 1982-83 fiscal year, the amounts in paragraph (2) of this subdivision shall be cumulatively increased by 6 percent, unless otherwise provided by law.

SEC. 37.77. Section 41972 of the Education Code is amended to read:

41972. Balances available from any apportionments from Section A of the State School Fund and funds provided by subdivision (c) of Section 14002 shall be used to the extent necessary as follows:

(a) First, to restore any reduction in apportionments for basic aid, and equalization aid, for elementary, high, and unified school districts and for all county superintendents of schools. In the event that the funds are not fully restored, the prorated reduction shall be based on the amount computed pursuant to subdivision (g) of Section 42238 or subdivision (h) of Section 42238 plus Section 42244, as the case may be.

(b) Second, to restore any reduction in apportionments pursuant to Section 41865.

(c) Third, to restore any reduction in apportionments pursuant to Sections 41863, 41866, 41882, 41884, 41885, and paragraphs (c), (d), (e), (f), and (g) of subdivision (1) of Section 41888.

(d) Fourth, to restore any reduction in apportionments pursuant

to Section 41886 and paragraphs (a) and (b) of subdivision (1) of, and paragraph (b) of subdivision (2) of Section 41888.

(e) Fifth, to restore any reduction in apportionments pursuant to Section 52205.

Any remaining balances otherwise transferable under subdivisions (b) and (c) of Section 14002 shall revert to the General Fund.

SEC. 37.8. Section 41976 of the Education Code is amended to read:

41976. Each school district or county superintendent of schools providing adult education courses and classes in the 1977-78 fiscal year shall continue to offer courses and classes in each of the following program areas if the district or county superintendent of schools offered those programs in the 1977-78 fiscal year:

(a) Adult programs in parenting, including parent cooperative preschools, classes in child growth and development, and parent-child relationships, and classes in parenting.

(b) Adult programs in elementary and secondary basic skills and other courses and classes required for the high school diploma. Apportionments for these courses and classes may only be generated by students who do not possess a high school diploma, except for remedial academic courses or classes in reading, mathematics, and language arts.

(c) Adult education programs in English as a second language.

(d) Adult education programs in citizenship for immigrants.

(e) Adult education programs for substantially handicapped persons.

(f) Adult short-term vocational programs with high employment potential.

(g) Adult programs for older adults.

(h) Adult education programs for apprentices.

(i) Adult programs in home economics.

(j) Adult programs in health and safety education.

SEC. 37.85. Section 41976.5 is added to the Education Code, to read:

41976.5. (a) Each school district or county superintendent of schools providing services in summer school programs for substantially handicapped persons in the 1977-78 school year shall continue in the 1980-81 fiscal year and each fiscal year thereafter to offer these programs.

(b) Commencing with the summer of 1980 and each year thereafter, each school district or county superintendent of schools receiving apportionments from Section A of the State School Fund shall offer summer programs for graduating high school seniors in need of courses for graduation prior to September of that calendar year.

SEC. 37.9. Section 42123 of the Education Code is amended to read:

42123. Each budget shall be itemized to set forth the necessary revenues and expenditures, by program, in each fund to operate the public schools of the district as authorized by law and on forms

prescribed by the Superintendent of Public Instruction.

In the case of continuation education schools and classes conducted pursuant to Article 3 (commencing with Section 48430) of Chapter 3 of Part 27, the estimated revenue shall include any allowances authorized pursuant to subdivision (a) of Section 41711 and adjustments pursuant to Section 42241.3 which were ultimately subsumed in the districtwide revenue limit. The information shall be separately identified for any public hearing on the school district budget required by Section 42103.

SEC. 38. Section 42210 of the Education Code is repealed.

SEC. 39. Section 42211 of the Education Code is repealed.

SEC. 40. Section 42212 of the Education Code is repealed.

SEC. 41. Section 42213 of the Education Code is repealed.

SEC. 42. Section 42237 of the Education Code is amended to read:  
42237. (a) For the 1978-79 fiscal year, the county superintendent of schools shall, for each school district in the county:

(1) Utilizing the second principal apportionment units of average daily attendance for the 1978-79 fiscal year and the adult and summer school units of average daily attendance for the 1977-78 fiscal year, recalculate the 1978-79 funding level pursuant to Section 2 of Chapter 292 of the Statutes of 1978, as amended by Chapter 332, Statutes of 1978 and Chapter 119, Statutes of 1979, excluding the adjustments authorized pursuant to former Sections 42239, 42241.7, 42243.6, 42245, and 46605, and 50 percent of the amount of adjustment authorized by Section 42950 as it read prior to amendment by Chapter 238 of the Statutes of 1979.

(2) Deduct the following from the amount determined in paragraph (1):

(A) The amounts which the district received, but not to exceed the amount expended in the 1978-79 fiscal year, for purposes of child development, developmental centers for handicapped pupils, and meals for needy pupils programs from funds provided pursuant to Chapter 292 of the Statutes of 1978, as amended by Chapter 332 of the Statutes of 1978, and Chapter 119 of the Statutes of 1979.

(B) An amount equal to the 1978-79 school year adult average daily attendance generated in the adult education programs specified in Item 316.1 of the Budget Act of 1978 (Ch. 359, Stats. 1978) multiplied by the 1978-79 adult revenue limit computed pursuant to either subdivision (f) or (g) and subdivision (i) of Section 43001 of the Education Code reduced by the district's reduction factor calculated pursuant to Section 2 of Chapter 292 of the Statutes of 1978 as amended by Chapter 332, Statutes of 1978, and Chapter 119, Statutes of 1979.

(3) Add to the amount determined in paragraph (2):

(A) The state apportionments earned by the district in fiscal year 1978-79 pursuant to Item 316.1 of the Budget Act of 1978 (Ch. 359, Stats. 1978), excluding that portion allocated for adults in subparagraph (A) of paragraph (4) of subdivision (c).

(B) The balances of funds on June 30, 1977, restricted for meals for

needy pupils for districts which levied no tax pursuant to Section 49502 of the Education Code in the 1977-78 fiscal year.

(C) One half of the amount of salary increases granted to classified employees of a school district in the fiscal years 1974-75 to 1979-80, inclusive, by the board of supervisors of a city and county.

(D) Any revenue limit increase authorized pursuant to Section 42244 which was not authorized to be levied prior to the 1979-80 fiscal year.

(4) Divide the amount determined in paragraph (3) by the sum of the 1978-79 second principal apportionment units of average daily attendance in the regular school year and in summer programs for graduating high school seniors. That amount shall be known as the school district's revenue limit per unit of average daily attendance for the 1978-79 fiscal year.

(5) The Superintendent of Public Instruction shall determine the statewide weighted mean revenue limit computed pursuant to paragraph (4) of this subdivision for the following groups of districts. For the purpose of this paragraph, "ADA" is the district's regular average daily attendance.

(A) Elementary districts with 100 or less units of ADA.

(B) Elementary districts with more than 100 and less than 901 units of ADA.

(C) High school districts with less than 301 units of ADA.

(D) Unified districts with less than 1,501 units of ADA.

(E) Elementary districts with greater than 900 units of ADA.

(F) High school districts with greater than 300 units of ADA.

(G) Unified districts with greater than 1,500 units of ADA.

(b) In the 1979-80 fiscal year, the county superintendent shall adjust each school district's revenue limit computed pursuant to subdivision (a) as follows:

(1) Divide the district's prior year revenue limit into the prior year's statewide weighted mean revenue limit for that type of district and multiply that result by the product of 0.086 and the amount determined in subparagraph (G) of paragraph (5) of subdivision (a).

(2) The amount determined in paragraph (1) shall be added to the district's 1978-79 fiscal year revenue limit computed pursuant to paragraph (4) of subdivision (a). That result shall be the district's revenue limit per unit of average daily attendance for the 1979-80 fiscal year.

(3) For purposes of computing school district revenue limits for the 1980-81 fiscal year pursuant to Section 42238, the amount computed pursuant to paragraph (2) shall be increased by the quotient of 50 percent of the amount of motor vehicle license fees distributed pursuant to Section 11003.4 of the Revenue and Taxation Code received by the district in the 1979-80 fiscal year divided by the number of units of average daily attendance determined in paragraph (1) of subdivision (c).

(c) The county superintendent shall determine the district's total revenue limit for the 1979-80 fiscal year by adding the following:

(1) The amount obtained by multiplying the revenue limit determined pursuant to subdivision (b) by the sum of the second principal apportionment regular average daily attendance, and the product of 0.6 multiplied by the summer average daily attendance for graduating high school seniors. For regional occupational centers and regional occupational programs and adult education programs and classes the fiscal year units of average daily attendance shall be used.

(2) The amount determined pursuant to Sections 42239, 42241.7, 42243.6, 42245, and 46605.

(3) The amounts for meals for needy pupils and for development centers for handicapped pupils determined in subparagraph (A) of paragraph (2) of subdivision (a) multiplied by 1.07, and adjusted for pupil participation.

(4) An amount for each unit of adult average daily attendance in the 1979-80 fiscal year for the programs specified in subdivision (b) of Section 41976 as follows:

(A) Determine for each district its 1978-79 fiscal year adult revenue limit per unit of average daily attendance computed pursuant to Sections 42244 and 43001.8 and subdivision (f) or (g) of Section 43001 as modified by the appropriate percentage in subdivision (c), (d), or (e) of Section 2 of Chapter 292 of the Statutes of 1978, as amended by Chapter 332 of the Statutes of 1978, as amended by Chapter 119 of the Statutes of 1979, plus the prorated amount allocated pursuant to Item 316.1 of the Budget Act of 1978 (Ch. 359, Stats. 1978) for adult programs.

(B) For districts with an adult revenue limit as determined in subparagraph (A) which is less than the 1978-79 fiscal year statewide average adult revenue limit computed pursuant to subparagraph (A), the adult revenue limit for the 1979-80 fiscal year shall be the amount determined in subparagraph (A) multiplied by 1.07.

(C) For districts with a revenue limit as determined in subparagraph (A) which is between the statewide average adult revenue limit computed pursuant to subparagraph (A) for the 1978-79 fiscal year and the product of 1.07 times that amount the adult revenue limit for the 1979-80 fiscal year shall be 1.07 times the 1978-79 fiscal year statewide average adult revenue limit.

(D) For districts with a revenue limit as determined in subparagraph (A) which is greater than 1.07 times the statewide average adult revenue limit computed pursuant to subparagraph (A) the amount computed pursuant to subparagraph (A) for the 1979-80 fiscal year shall be the amount determined in subparagraph (A) except that for any units of adult average daily attendance in excess of that reported for the second principal apportionment of the 1978-79 fiscal year, the adult revenue limit shall be 1.07 multiplied by the 1978-79 fiscal year statewide average adult revenue limit.

(E) To the amount computed in subparagraph (B), (C), or (D) shall be added the adjustments, if any, made pursuant to Sections 42243.6, 42245, and 46605.

(d) In no event shall the amount computed pursuant to this sec-

tion be less than the product of 1.02 times the amount computed pursuant to Section 2 of Chapter 292 of the Statutes of 1978, as amended by Chapter 332 of the Statutes of 1978, and Chapter 119 of the Statutes of 1979, exclusive of funds expended for the purposes of child development programs.

(e) The Superintendent of Public Instruction shall apportion to each school district in the 1979–80 fiscal year the amount determined in this section less the sum of: (1) the district's property tax revenue received pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of the Revenue and Taxation Code; (2) the amount, if any, received pursuant to Part 18.5 (commencing with Section 38101) of the Revenue and Taxation Code; (3) the amount if any, received pursuant to Chapter 3 (commencing with Section 16140) of the Government Code; (4) prior year taxes and taxes on the unsecured roll; (5) 50 percent of the amount received pursuant to Section 41603.

SEC. 43. Section 42237.6 of the Education Code is amended to read:

42237.6. A high school district providing education to 7th and 8th grade pupils may add to its revenue limit in subparagraph (A) of paragraph (3) of subdivision (a) of Section 42237 an amount computed as follows: (1) compute the amount of state aid and revenue limit increase for the 1978–79 fiscal year pursuant to Sections 23401, 41716, and 41716.5 using the unified district computational tax rates attributable to grades 7 to 12, inclusive, in Section 41716.5 in lieu of the high school district computational tax rates, (2) subtract the actual state aid received in the 1978–79 fiscal year and actual 1978–79 revenue limit increase pursuant to Sections 23401, 41716, and 41716.5 from the amount determined in (1). If the amount determined in (2) is greater than zero, that amount may be added to the district's revenue limit.

This section shall remain in effect only until June 30, 1980, and as of such date is repealed, unless a later enacted statute, which is chaptered before June 30, 1980, deletes or extends such date.

SEC. 44. Section 42237.7 is added to the Education Code, to read:

42237.7. It is the intent of the Legislature to transfer on a permanent basis the junior high school tuition amounts for 7th and 8th grade pupils in junior high schools operated by high school districts from the revenue limits of elementary school districts to the revenue limits of the high school districts. Prior to computing each school district revenue limit for the 1980–81 fiscal year, each elementary and high school district 1979–80 fiscal year revenue limit shall be adjusted pursuant to this section. The adjustment shall not be an adjustment to apportionments for the 1979–80 fiscal year.

(a) The county superintendent of schools having jurisdiction shall, for elementary districts with pupils attending junior high schools operated by a high school district:

(1) Subtract from the 1979–80 fiscal year revenue limit per unit of average daily attendance computed pursuant to paragraph (2) of subdivision (b) of Section 42237 of the elementary district, the

amount of the 1979-80 fiscal year junior high tuition rate per unit of average daily attendance which was calculated to be paid by the elementary district.

(2) Multiply the amount determined in paragraph (1) by the number of units of average daily attendance of the elementary district attending junior high schools operated by a high school district.

(3) Divide the amount determined in paragraph (2) by the number of units of average daily attendance attending kindergarten and grades 1 to 6, inclusive, in the elementary district in the 1979-80 fiscal year.

(4) The amount computed in paragraph (3) shall be added to the amount computed in paragraph (2) of subdivision (b) of Section 42237 to determine the adjusted revenue limit per unit of average daily attendance of the elementary district.

For the 1979-80 fiscal year and each fiscal year thereafter, the elementary school district shall not include in its revenue limit calculation any units of average daily attendance attributable to the attendance of 7th and 8th graders in junior high schools operated by a high school district. The loss of units of average daily attendance due to the transfer of 7th and 8th grade pupils pursuant to this section shall not be used in computing declining enrollment for the elementary district pursuant to Section 42239.

(b) The county superintendent of schools having jurisdiction shall, for high school districts with junior high school pupils:

(1) Multiply the junior high tuition rate for the 1979-80 fiscal year for each elementary district served by the high school district by the number of units of average daily attendance of the appropriate elementary district for the 1979-80 fiscal year and sum the products so determined.

(2) Divide the sum determined in paragraph (1) by the total units of average daily attendance in grades 7 and 8 of the high school district in the 1979-80 fiscal year.

(3) Subtract the amount determined in paragraph (2) from the amount computed for the high school district pursuant to paragraph (2) of subdivision (b) of Section 42237.

(4) Multiply the amount determined in paragraph (3) by the number of units of average daily attendance in the 7th and 8th grades of the high school district in the 1979-80 fiscal year.

(5) Divide the amount determined in paragraph (4) by the number of units of average daily attendance in grades 7 to 12, inclusive, of the high school district in the 1979-80 fiscal year.

(6) The amount computed in paragraph (5) shall be subtracted from to the amount computed in paragraph (2) of subdivision (b) of Section 42237 to determine the adjusted revenue limit per unit of average daily attendance of the high school district.

For the 1980-81 fiscal year and each fiscal year thereafter, all units of average daily attendance generated from pupils attending grades 7 and 8 in a junior high school operated by a high school district shall be credited to the high school district. The Superintendent of Public

Instruction shall establish procedures for the determination of declining enrollment for the high school district pursuant to Section 42239.

(c) Any reduction or addition to the revenue limits of school districts affected by the implementation of this section shall not be considered in the calculation provided for in subdivision (d) of Section 42237.

(d) For the purpose of determining the appropriations limit of school districts affected by this section, the appropriations limit of each school district shall be adjusted in accordance with subdivision (a) of Section 3 of Article XIII B of the California Constitution.

SEC. 45. Section 42238 of the Education Code is amended to read:

42238. (a) For the 1980-81 fiscal year and each fiscal year thereafter the county superintendent of schools shall determine a revenue limit for each school district in the county pursuant to this section, excluding any funds resulting from an adjustment pursuant to Section 42950, as it read prior to its amendment by Chapter 238 of the Statutes of 1979.

(b) For the 1980-81 fiscal year, each district with a revenue limit per unit of average daily attendance computed for the 1979-80 fiscal year pursuant to paragraph (2) of subdivision (b) of Section 42237, shall receive the maximum inflation adjustment if that revenue limit is less than the following amounts:

(1) Elementary districts with less than 101 units of average daily attendance, one thousand seven hundred dollars (\$1,700).

(2) Elementary districts with more than 100 units of average daily attendance, one thousand three hundred fifty dollars (\$1,350).

(3) High school districts with less than 301 units of average daily attendance, one thousand nine hundred dollars (\$1,900).

(4) High school districts with more than 300 units of average daily attendance, one thousand seven hundred dollars (\$1,700).

(5) Unified districts with less than 1,501 units of average daily attendance, one thousand five hundred twenty-five dollars (\$1,525).

(6) Unified districts with more than 1,500 units of average daily attendance, one thousand five hundred dollars (\$1,500).

For computation of revenue limits for the 1981-82 fiscal year and each fiscal year thereafter, the amounts specified in paragraphs (1) through (6) shall be cumulatively increased by the amount of the maximum inflation adjustment for the preceding fiscal year.

(c) For the 1980-81 fiscal year, each district with a revenue limit per unit of average daily attendance computed for the 1979-80 fiscal year pursuant to paragraph (2) of subdivision (b) of Section 42237 shall receive the minimum inflation adjustment if that revenue limit is more than the following amounts:

(1) Elementary districts with less than 101 units of average daily attendance, two thousand two hundred dollars (\$2,200).

(2) Elementary districts with more than 100 units of average daily attendance, one thousand eight hundred fifty dollars (\$1,850).

(3) High school districts with less than 301 units of average daily

attendance, two thousand four hundred dollars (\$2,400).

(4) High school districts with more than 300 units of average daily attendance, two thousand two hundred dollars (\$2,200).

(5) Unified districts with less than 1,501 units of average daily attendance, two thousand twenty-five dollars (\$2,025).

(6) Unified districts with more than 1,500 units of average daily attendance, two thousand dollars (\$2,000).

For the computation of revenue limits for the 1981-82 fiscal year and each fiscal year thereafter, the amounts specified in paragraphs (1) through (6) shall be cumulatively increased by the amount of the difference between the maximum inflation adjustment prescribed in subdivision (d) for the preceding fiscal year and one hundred dollars (\$100).

(d) The maximum inflation adjustment shall be one hundred fifty dollars (\$150) for the 1980-81 fiscal year; one hundred thirty-nine dollars (\$139) for the 1981-82 fiscal year; one hundred thirty dollars (\$130) for the 1982-83 fiscal year; and, one hundred thirty-eight dollars (\$138) for the 1983-84 fiscal year and each fiscal year thereafter. The minimum inflation adjustment in each fiscal year shall be the amount of the maximum inflation adjustment reduced by sixty-five dollars (\$65).

(e) Utilizing the district revenue limit per unit of average daily attendance for the preceding fiscal year computed pursuant to paragraph (2) of subdivision (b) of Section 42237 or this section, as the case may be, the county superintendent of schools shall compute an inflation adjustment as follows:

(1) For districts with a revenue limit per unit of average daily attendance in the preceding fiscal year which was less than the amount specified in subdivision (b) excluding any adjustment pursuant to paragraph (3) of subdivision (b) of Section 42237, the maximum inflation allowance plus an additional amount not to exceed twenty-five dollars (\$25) if the district will qualify for the maximum inflation adjustment in the next succeeding fiscal year.

(2) For districts with a revenue limit per unit of average daily attendance in the preceding fiscal year which was greater than the amount specified in subdivision (b), but less than the amount specified in subdivision (c), determine the difference between the prior year amount specified in subdivision (c) and the district's prior year revenue limit per unit of average daily attendance. Multiply that difference by 65 and divide that product by the difference between the prior year amounts specified in subdivisions (b) and (c). This result added to the minimum inflation adjustment specified in subdivision (d) shall be the inflation adjustment.

(3) For districts with a revenue limit per unit of average daily attendance in the preceding fiscal year which was equal to or greater than the amount specified in subdivision (c) the inflation adjustment shall be the minimum inflation adjustment specified in subdivision (d).

(f) The amount computed pursuant to subdivision (e) shall be

added to the revenue limit per unit of average daily attendance computed pursuant to paragraph (2) of subdivision (b) of Section 42237, excluding any funds resulting from an adjustment pursuant to Section 42950 as it read prior to amendment by Chapter 238 of the Statutes of 1979, for the 1980-81 fiscal year, or the amount computed pursuant to this subdivision for the 1981-82 fiscal year and each fiscal year thereafter. This amount shall be known as the school district revenue limit per unit of average daily attendance for the fiscal year for which it was computed.

(g) The county superintendent of schools shall determine the district's total revenue limit for the current year by adding the following:

(1) The amount obtained by multiplying the revenue limit determined pursuant to subdivision (f) by the sum of the second principal apportionment regular average daily attendance and the product of 0.6 times the sum of the summer average daily attendance for graduating high school seniors and pupils participating in summer school programs in grades 7 to 12, inclusive, who do not meet the district's adopted proficiency standards. For regional occupational centers and regional occupational programs and adult education programs and classes the fiscal year units of average daily attendance shall be used.

(2) The amount determined pursuant to Sections 42239, 42241.7, and 42243.6.

(3) The amounts computed in the preceding fiscal year for development centers for handicapped pupils and meals for needy pupils programs multiplied by 1.06, and adjusted for pupil participation.

(4) The amount of the adult education block entitlement as follows:

(A) The adult education block entitlement shall be computed by multiplying the amount per unit of adult average daily attendance for the preceding fiscal year times the product of 1.06 and the number of units of adult average daily attendance for the programs specified in Section 41976, provided that in no event shall the amount per unit of adult average daily attendance exceed the district's prior year adult education revenue limit if it is greater than 1.06 times the prior year statewide average adult education revenue limit pursuant to subdivision (c) of Section 42237.

(B) In the event the district's adult education block entitlement computed pursuant to subparagraph (A) is greater than the following calculations, the following calculations shall be the maximum block entitlement that shall be apportioned to the district:

(i) Multiply the prior fiscal year adult average daily attendance for the programs specified in Section 41976 by 1.02.

(ii) Multiply the amount determined in clause (i) by the district's adult revenue limit per unit of average daily attendance for the current fiscal year.

(iii) This maximum block entitlement may be exceeded pursuant to the provisions of subparagraph (C) when unencumbered funds

are reallocated.

(C) If the adult average daily attendance of a school district is less than the adult average daily attendance utilized to compute the funded district adult education block entitlement, the district shall receive an apportionment only for the actual average daily attendance generated. Any surpluses accrued as a result of average daily attendance not generated in a district's block entitlement shall be reallocated after the first principal apportionment by the Superintendent of Public Instruction for meeting specific needs or unanticipated growth in adult education, or both. The receipt of reallocated funds shall not be used for computational purposes for the district's block entitlement for subsequent years.

(D) The adult education block entitlement shall be deposited in a separate fund of the district to be known as the "adult education fund." Moneys in an adult education fund can only be expended for adult education purposes.

Moneys received for programs other than adult education shall not be expended for adult education.

(E) Each school district which conducted adult education programs for substantially handicapped adults in activity centers, work activity centers, sheltered workshops, state hospitals, and other community settings, shall set aside an amount of money from its adult education block entitlement equal to its current fiscal year revenue limit times the average daily attendance generated in these facilities in the 1979-80 fiscal year times 1.02. The amounts set aside pursuant to this subparagraph shall be used exclusively for classes in these facilities.

(h) In no event shall the amount computed pursuant to this section in the 1980-81 fiscal year be less than the product of 1.02 times the amount computed pursuant to Section 42237.

(i) The Superintendent of Public Instruction shall apportion to each school district in the 1980-81 fiscal year and in each fiscal year thereafter, the amount determined in this section less the sum of:

(1) The district's property tax revenue received pursuant to Chapter 6 (commencing with Section 95) of Part 0.5 of the Revenue and Taxation Code.

(2) The amount, if any, received pursuant to Part 18.5 (commencing with Section 38101) of the Revenue and Taxation Code.

(3) The amount, if any, received pursuant to Chapter 3 (commencing with Section 16140) of the Government Code.

(4) Prior year taxes and taxes on the unsecured roll.

(5) Fifty percent of the amount received pursuant to Section 41603.

(6) The amount of motor vehicle license fees distributed pursuant to Section 11003.4 of the Revenue and Taxation Code.

SEC. 45.3. Section 42240 of the Education Code is amended to read:

42240. From funds appropriated for such purposes, the Superintendent of Public Instruction shall apportion funds to school districts

pursuant to this section in an amount not to exceed fourteen million six hundred thousand dollars (\$14,600,000) in the 1979-80 fiscal year and seventeen million five hundred eighteen thousand dollars (\$17,518,000) in the 1980-81 fiscal year.

The revenue limit of each school district with less than 2,501 units of average daily attendance for the second principal apportionment in the 1978-79 fiscal year and approved home to school transportation costs in excess of 3 percent of its general fund total expense of education in the 1977-78 fiscal year shall be increased in the 1979-80 fiscal year and 1980-81 fiscal year by an amount not to exceed the difference between its approved home to school transportation costs in the 1977-78 fiscal year and 3 percent of the district general fund total expense of education in the 1977-78 fiscal year or the difference between its approved home to school transportation costs in the 1978-79 fiscal year and 3 percent of the district general fund total expense of education in the 1978-79 fiscal year, whichever is greater.

In the event that apportionments resulting from the revenue limit increase prescribed by this section exceed fourteen million six hundred thousand dollars (\$14,600,000) in the 1979-80 fiscal year and seventeen million five hundred eighteen thousand dollars (\$17,518,000) in the 1980-81 fiscal year, the Superintendent of Public Instruction shall adjust on a pro rata basis such apportionments so that the total amount in each fiscal year does not exceed such amount.

Apportionments to school districts for the 1979-80 fiscal year shall not be recomputed pursuant to the amendments made to this section at the 1980 portion of the 1979-80 Regular Session of the Legislature. However, apportionments for the 1980-81 fiscal year shall be computed as if such amendments had been operative on July 1, 1980, and the Superintendent of Public Instruction, and other public officers charged with the duty of computing and making apportionments to school districts, shall take all necessary steps to effect the midfiscal year transition involved.

This section shall remain in effect only until July 1, 1981, and as of such date is repealed, unless a later enacted statute, which is chaptered before July 1, 1981, deletes or extends such date.

SEC. 45.5. Section 42243.5 of the Education Code is amended to read:

42243.5. In the 1979-80 fiscal year only, the revenue limit of a school district shall be decreased as follows:

(a) The county superintendent of schools shall determine the amount of district contributions from local tax revenues pursuant to former Sections 59021, 59121, and 59221 for the 1972-73 fiscal year, plus or minus the 1978-79 fiscal year revenue limit adjustment as a result of Section 42243.5 as it read in that fiscal year.

(b) The county superintendent of schools shall subtract the amount computed in subdivision (a) when recalculating the 1978-79 funding level pursuant to paragraph (1) of subdivision (a) of Section 42237.

SEC. 46. Section 42243.7 of the Education Code is amended to

read:

42243.7. (a) For any unified school district which commenced operations on or after June 30, 1978, or any school district which receives approval from the Department of Education for a new continuation education high school for the 1979-80 fiscal year, or any fiscal year thereafter, the Superintendent of Public Instruction shall compute an adjustment to the district revenue limit pursuant to this section.

(b) Determine the amount of foundation program which the district would have been entitled to pursuant to subdivision (a) of Section 41711 if the district had operated during the 1977-78 fiscal year utilizing the number of units of average daily attendance attending high school in the district in the fiscal year for which the revenue limit is being computed.

(c) Determine the amount of foundation program which the district would have been entitled to pursuant to paragraph (1) of subdivision (b) of Section 41711 if the district had operated during the 1977-78 fiscal year utilizing the same number of units of average daily attendance used in subdivision (b) of this section.

(d) Subtract the amount determined pursuant to subdivision (c) from the amount computed pursuant to subdivision (b).

(e) The amount computed pursuant to subdivision (d), if greater than zero, shall be added to the revenue limit computed pursuant to subdivision (c) of Section 42237 or subdivision (g) of Section 42238. If the amount in subdivision (d) is less than zero there is no adjustment.

SEC. 46.5. Section 42243.8 is added to the Education Code, to read:

42243.8. The revenue limit adjustment authorized pursuant to Section 42243.6 shall be funded by the Controller from funds specifically appropriated therefor by the Legislature. In the event that claims exceed the appropriation authorized, the Controller shall prorate the available funds among the districts submitting claims. Any amount of claims in excess of the appropriation may be referred to the Board of Control for review and possible inclusion in a subsequent claims bill.

SEC. 47.5. Section 44988 is added to the Education Code, to read:

44988. Prior to July 1 of any school year, the governing board of any school district may designate other days during such year as the holidays to which certificated employees are entitled in lieu of the holidays on February 12 known as "Lincoln Day," the third Monday in February known as "Washington Day," the last Monday in May known as "Memorial Day," or November 11 known as "Veterans Day," provided that such designated days will provide for at least a three-day weekend. Certificated employees shall be required to work on the regular holiday for which another day is designated pursuant to this section, and for work of eight hours or less, shall be paid compensation at their regular rate of pay.

If any certificated employee would be entitled to the regular paid

holiday but would not be in a paid status during any portion of the working day immediately preceding or succeeding the day so designated in lieu of such holiday and therefore would not be entitled to such day in lieu of the holiday, he or she shall be entitled to the regular holiday.

This section shall not be construed to authorize the maintenance of schools on holidays other than as provided in Article 3 (commencing with Section 37220) of Chapter 2 of Part 22.

SEC. 48. Section 46146 of the Education Code is repealed.

SEC. 49. Section 46601 of the Education Code is repealed.

SEC. 50. Section 46605 of the Education Code is repealed.

SEC. 51. Section 46606 of the Education Code is repealed.

SEC. 52. Section 46608 of the Education Code is repealed.

SEC. 53. Section 46610 of the Education Code is repealed.

SEC. 54. Section 46613 of the Education Code is amended to read:

46613. The governing board of any school district may admit to the schools or classes maintained in the district any pupils who reside in another school district during any of the first three fiscal years of existence for all purposes of the district of residence, whenever an agreement is entered into between the governing boards stipulating the terms upon which the interdistrict attendance shall be permitted. Average daily attendance pursuant to this section is not included for purposes of declining enrollment calculations as prescribed by Section 42239.5.

SEC. 55. Section 46614 of the Education Code is repealed.

SEC. 56. Section 46616 of the Education Code is amended to read:

46616. (a) Except as provided in subdivision (b) or (c), the average daily attendance for attendance of pupils from another district shall be credited to the district of attendance for purposes of determining state apportionments and the revenue limit pursuant to Section 42237 or 42238.

(b) For any district which would have a reduction of 25 percent or more in its federal grant pursuant to Public Law 81-874 if the average daily attendance of pupils residing within the district were credited to the district of attendance, then the average daily attendance resulting from an interdistrict attendance agreement shall be credited to the district of residence and the district of residence shall pay a tuition to the district of attendance no later than the next August 31, after the close of the fiscal year as follows:

(1) For attendance in regular day schools and summer schools the tuition per unit of average daily attendance, if any, shall not exceed the actual cost per unit of average daily attendance for the grade level or program less any income, other than tuition, received by the district of attendance on account of such attendance.

(2) The district in which the pupil resides shall reduce its total revenue limit pursuant to Section 42238 by the total excess, if any, of its revenue limit per unit of average daily attendance multiplied by the total interdistrict attendance over the total tuition to be paid to districts of attendance.

The district in which the pupil resides may increase its total revenue limit pursuant to Section 42238 by the total excess, if any, of the total tuition to be paid to districts of attendance over the district of residence's revenue limit per unit of average daily attendance multiplied by the total interdistrict average daily attendance.

(c) For any consortium of school districts operating an adult education and a regional occupational program serving four or more school districts, the school districts may agree to claim the unit of average daily attendance on the basis of the district of residence and pay such interdistrict tuition to the district of attendance as agreed to by the participating districts.

SEC. 57. Section 46617 of the Education Code is repealed.

SEC. 58. Section 49531 of the Education Code is amended to read:

49531. Any child nutrition entity may apply to the Department of Education for all available federal and state funds so that a nutritionally adequate breakfast or lunch, or both, may be provided to pupils each schoolday at each school in such districts or maintained by such county superintendents of schools, or at such private schools and parochial schools and to children receiving child development services. The State Board of Education shall adopt rules and regulations for the operation of lunch and breakfast programs in school districts. A child nutrition entity which receives state funds pursuant to this article, shall provide breakfasts and lunches in accordance with state and federal guidelines.

For purposes of this article, a nutritionally adequate breakfast or lunch is a breakfast or lunch which qualifies for reimbursement under the federal child nutrition program regulations.

SEC. 59. Section 49553 of the Education Code is amended to read:

49553. For the purposes of this article, a nutritionally adequate breakfast or lunch is one which qualifies for reimbursement under the federal child nutrition program regulations.

SEC. 59.2. Section 52213.5 is added to the Education Code, to read:

52213.5. Of the amount available for expenditure for the purposes of this chapter by subdivision (e) of Section 41301 or any equivalent provision of law, up to a total of two hundred twenty-five thousand dollars (\$225,000) may be used for the evaluation of programs prescribed by this chapter for the 1980-81, 1981-82, 1982-83, and 1983-84 fiscal years.

SEC. 59.4. Section 52302.9 of the Education Code is amended to read:

52302.9. Regional occupational centers and programs may jointly establish, operate, and share the enrollments and costs of vocational education instruction with adult education programs offered by school districts serving the same geographic area. Such programs shall be approved by the State Board of Education and the county superintendent of schools and shall be subject to guidelines established by the Superintendent of Public Instruction. Such programs shall also be funded at the adult revenue limit amount provided

pursuant to Section 42238.

SEC. 59.5. Section 52317 of the Education Code is repealed.

SEC. 59.6. Section 52321 of the Education Code is amended to read:

52321. (a) A regional occupational center or program established and maintained by school districts or joint powers agencies pursuant to Section 52301 shall receive in annual operating funds from each of the participating school districts an amount per unit of average daily attendance equal to the revenue limit received by such districts for each unit of average daily attendance generated in the regional occupational center or program.

A regional occupational center or program established and maintained by a county superintendent of schools pursuant to Section 52301 shall receive funding pursuant to Section 2550. A county superintendent of schools shall report average daily attendance to the Superintendent of Public Instruction for such funding.

(b) Any regional occupational center or program is authorized to (1) budget and accumulate an amount necessary to meet the cash flow needs of the regional occupational center or program known as a general reserve, not to exceed 10 percent of the previous year's expenditures for the operation of the regional occupational center or program and (2) budget and accumulate an amount known as an appropriation for contingencies. The appropriation for contingencies is intended to provide for unforeseen requirements and shall be available for appropriation only after approval by a two-thirds vote of the governing body, and limited to 5 percent of the previous fiscal year's expenditures for the operation of the regional occupational center or program.

(c) Net ending balances, exclusive of capital outlay balances accumulated through the regional occupational center and program restricted capital outlay tax authorized by Sections 52312 and 52317, in excess of 15 percent of the amount expended in the prior year, shall be deemed to be excessive regardless of the year accumulated.

Net ending balances in excess of 15 percent shall be returned to the districts participating in the regional occupational center or program in proportion to the district's contribution to the regional occupational center or program. The county superintendent of schools shall reduce the revenue limit of the districts by an amount equal to the excess reserves which are required to be returned to the districts. Net ending balances in excess of 15 percent in county operated regional occupational centers or programs shall reduce the revenue limit of the county superintendent program by an amount equal to the excess reserves in that program.

SEC. 59.7. Section 52324 of the Education Code is amended to read:

52324. Units of average daily attendance in the regional occupational centers or regional occupational programs of a county for a fiscal year are the quotient arising from dividing the total number of days of pupil's attendance in such centers, or programs, during the

fiscal year by 175.

Attendance in regional occupational centers, or regional occupational programs, operated under subdivision (a) of Section 52305 shall be considered pupil's attendance under this section, but attendance in regional occupational centers, or regional occupational programs, under subdivision (b) of Section 52305 shall not be so considered.

As used in this section, "school district" includes each of those districts which are cooperating in the maintenance of the center or program, with the approval of the county superintendent of schools, pursuant to Section 52301; and units of average daily attendance of pupils residing in such school district shall be credited to the school district.

SEC. 59.8. Section 52324.5 of Education Code is amended to read:

52324.5. For the purpose of crediting attendance for apportionments from Section A of the State School Fund during the fiscal year, any person who is concurrently enrolled in a nonpublic high school and in a regional occupational center or program operated under subdivision (a) of Section 52305 and maintained by a district or districts shall be classified as a regular student enrolled in a regular high school program, notwithstanding Section 52610.

For the purposes of this section, a nonpublic high school is a school which satisfies the requirements of Section 48222 if such school is exempt from taxation under Section 214 of the Revenue and Taxation Code, and if instruction in such school is given through grade 12.

SEC. 60. Section 54060 is added to the Education Code, to read:

54060. (a) For the 1980-81 fiscal year and each year thereafter the Superintendent of Public Instruction shall:

(1) Identify the unified school districts which received state allocations during the 1976-77 fiscal year pursuant to Section 54002, and determine those districts which have more than 12,022 students in average daily attendance in fiscal year 1975-76, and either of the following criteria:

(A) The product of the district factor determined pursuant to Section 54002 and the count for the 1975-76 fiscal year of children from families receiving aid to families with dependent children is equal to or greater than 3,731, or

(B) The district's index of family poverty determined pursuant to subdivision (b) of Section 54002 is greater than 1.5 and the total minority population in the district determined pursuant to the Racial and Ethnic Survey of 1973 is greater than 55 percent.

(2) For districts so identified, multiply the factor determined pursuant to Section 54002 by the district's aid to families with dependent children count for the 1975-76 fiscal year by the factor computed pursuant to subdivision (b) of Section 42238 and by a factor of 1.1 for districts having an average daily attendance greater than 58,800 in the 1975-76 fiscal year. He shall total the result for such districts and shall divide such sum into the amount appropriated by the Legislature for the purposes of this section for the fiscal year in question.

(3) Allocate to such districts an amount computed by multiplying the per unit amount in paragraph (2) by the district's factor, by the district's aid to families with dependent children count for the 1975-76 fiscal year. Such amounts shall be in addition to other amounts computed under this chapter.

(b) If the sum appropriated for purposes of this section is not sufficient to make the allowances specified by this section, such allowances shall be reduced proportionately.

(c) The allowance prescribed by this section shall be deposited in the general fund of each recipient district and may be used for any purpose for which other funds so deposited may be used and shall not be included in the computation of the revenue limit of the district.

SEC. 62. Section 58608 of the Education Code is repealed.

SEC. 62.3. Section 81136 of the Education Code is amended to read:

81136. The application shall be accompanied by a filing fee in amounts as determined by the Department of General Services based on the estimated cost according to the following schedule:

(a) For the first one million dollars (\$1,000,000), a fee of not more than 0.7 percent of the estimated cost.

(b) For all costs in excess of one million dollars (\$1,000,000), a fee of not more than 0.6 percent of the estimated cost.

The minimum fee in any case shall be two hundred fifty dollars (\$250). If the actual cost exceeds the estimated cost by more than 5 percent, a further fee shall be paid to the Department of General Services, based on the above schedule and computed on the amount by which the actual cost exceeds the amount of the estimated cost.

SEC. 62.35. Section 84704 of the Education Code is amended to read:

84704. (a) The chancellor shall increase district revenues computed pursuant to this article for each of those districts whose second principal apportionment average daily attendance for fiscal year 1977-78 exceeds 28,000, by an amount equal to fifteen dollars (\$15) times the 1979-80 average daily attendance reported for each of those districts.

(b) The chancellor shall adjust the district revenues computed pursuant to this article for any multicollege community college district which for the 1977-78 fiscal year included one or more small colleges of less than 3,000 units of average daily attendance, which are located more than 13 miles from the district office; provided that the colleges were in operation on or before July 1, 1977, and accredited by this time as separate institutions by the accrediting commission for community and junior colleges of the Western Association of Schools and Colleges; except that a college in any district that is eligible for the allowance allowed pursuant to Section 84704(a) will not be eligible for the allowance provided in this subdivision.

For each such eligible community college district, the chancellor shall add to the district's revenues, computed pursuant to this article, one-half of the difference between:

(1) The revenue that would have resulted during 1977-78 by applying the small district formula, pursuant to Sections 84764 and 84765, except using attendance ADA, to those units of average daily attendance reported for the small college or colleges within that district; and

(2) The revenues that would have resulted by applying the district's base revenue, computed pursuant to Section 84701, per unit of average daily attendance during 1977-78 to those units of average daily attendance reported for the small college or colleges within that district.

If the amount computed pursuant to paragraph (1) is less than the amount computed pursuant to paragraph (2), there shall be no adjustment made pursuant to this subdivision.

SEC. 62.4. 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 the following revenues: (1) local property tax revenues, exclusive of bond interest and redemption, (2) other local tax revenues specified by law for the general operating support of community colleges, and (3) motor vehicle license fees received pursuant to Section 11003.4 of the Revenue and Taxation Code. 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 per-

cent 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 their state general apportionment that they are otherwise entitled to receive.

SEC. 62.45. 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 either the sum of those revenues received pursuant to Sections 84701 to 84704, inclusive, plus the 1979-80 income received from motor vehicle license fees pursuant to Section 11003.4 of the Revenue and Taxation Code, or revenues received pursuant to 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. 62.5. Section 65979 of the Government Code is amended to read:

65979. One year after receipt of an apportionment pursuant to the Leroy F. Greene State School Building Lease-Purchase Law of 1976 (Chapter 22 (commencing with Section 17700 of Part 10 of the Education Code) for the construction of a school, the city or county shall not be permitted thereafter, pursuant to this chapter or pursuant to any other school facilities financing arrangement such district may have with builders of residential development, to levy any fee or to require the dedication of any land within the attendance area of the district. However, any time after receipt of the apportionment there may be a determination of overcrowding pursuant to Section 65971, if there is the further finding that (1) during the period of construction additional overcrowding would occur from continued residential development, and (2) that any fee levied and any required dedication of land levied after the receipt of the construction apportionment can be used to avoid the additional overcrowding prior to the school being available for use by the school district.

Any amounts of fees collected or land dedicated after the receipt of the construction apportionment and not used to avoid overcrowding shall be returned to the person who paid the fee or made the land dedication.

SEC. 62.6. Section 65980 of the Government Code is amended to read:

65980. For the purposes of Section 65974, "classroom facilities," "classroom and related facilities," and "elementary or high school facilities" mean "interim facilities" as defined in this section and shall include no other facilities.

Interim facilities for the purposes of Section 65974 shall be limited to the following:

(a) Temporary classrooms not constructed with permanent foundation and defined as a structure containing one or more rooms, each of which is designed, intended, and equipped for use as a place for formal instruction of pupils by a teacher in a school.

(b) Temporary classroom toilet facilities not constructed with permanent foundations.

(c) Reasonable site preparation and installation of temporary classrooms.

SEC. 62.65. Section 96 of Chapter 282 of the Statutes of 1979 is amended to read:

Sec. 96. There is hereby appropriated from the General Fund to Section A of the State School Fund the sum of fourteen million six hundred thousand dollars (\$14,600,000) for the 1979-80 fiscal year and the sum of seventeen million five hundred eighteen thousand dollars (\$17,518,000) for the 1980-81 fiscal year for purposes of Section 42240 of the Education Code.

SEC. 62.7. Notwithstanding the provisions of Section 81523 of the Education Code, the Saddleback Community College District may use temporary-use buildings for a total time in excess of three years until such facilities are replaced by approved relocatable structures, but in no event shall such total time period extend beyond August 16, 1981.

SEC. 63. Any amount paid by a school district to a county superintendent of schools in the 1978-79 fiscal year pursuant to former Section 1705, as added by Chapter 1010 of the Statutes of 1976, shall be reduced from that school district's 1980-81 revenue limit.

This section shall be deemed operative for the entire 1980-81 fiscal year as though it had been enacted into law and become operative on July 1, 1980. The Superintendent of Public Instruction shall, for such purposes, have authority to take all necessary steps to effect the midfiscal year transition involved, including the authority to adjust allowance computations, apportionments, and disbursements ordered from Section A of the State School Fund.

SEC. 64. The sum of fifteen million dollars (\$15,000,000) is hereby appropriated from the Capital Outlay Fund for Public Higher Education or, if Assembly Bill No. 2973 or Senate Bill No. 1426 is chaptered and becomes effective before this act, the Special Account for

Capital Outlay, for immediate transfer 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. 65. The sum of forty-nine thousand five hundred dollars (\$49,500) is hereby appropriated from the General Fund to the Department of Education for the 1980-81 fiscal year for the purpose of paying the annual dues of the Education Commission of the States.

SEC. 67.5. (a) Commencing with the 1980-81 fiscal year, the sum of one million dollars (\$1,000,000) is hereby annually appropriated to the Controller for allocation and disbursement to local agencies and school districts for purposes of Assembly Bill No. 3369 of the 1979-80 Regular Session of the Legislature as follows:

(1) The sum of six hundred thousand dollars (\$600,000) from the General Fund for costs incurred in conducting the conferences pursuant to Section 51216 of the Education Code.

(2) The sum of four hundred thousand dollars (\$400,000) from the General Fund pursuant to Section 2231 of the Revenue and Taxation Code for other costs mandated by the state and incurred pursuant to Assembly Bill No. 3369 of the 1979-80 Regular Session of the Legislature.

(b) This section shall not become operative unless Assembly Bill No. 3369 of the 1979-80 Regular Session is chaptered and, in that case, this section shall become operative at the same time as Assembly Bill No. 3369 becomes operative or as soon as possible thereafter.

SEC. 67.7. The sum of fifty thousand dollars (\$50,000) is hereby appropriated from the General Fund to the Controller for the cost of administering Sections 42243.6 and 42243.8 of the Education Code.

SEC. 68. Sections 42 and 43 of this act, shall be deemed operative for the entire 1979-80 fiscal year as though it had been enacted into law and become operative on July 1, 1979. The Superintendent of Public Instruction and other public officers may, for such purposes, take all necessary steps to effect the required adjustments, including the authority to adjust allowance computations, apportionments, and disbursements ordered from Section A of the State School Fund.

SEC. 68.3. Section 37.23 of this act shall become operative on January 1, 1981.

SEC. 68.5. Sections 49, 50, 51, 52, 53, 54, 55, and 56 of the act shall become operative on July 1, 1981.

SEC. 69. A sum not to exceed one million five hundred seventy-four thousand three hundred eighty-four dollars (\$1,574,384) is hereby appropriated from the General Fund to the Superintendent of Public Instruction for allocation to the Antioch Unified School District for actual expenditures for the inspection and repair of structural damage suffered at Antioch High School when the roof of the school auditorium collapsed on March 25, 1980, and for the replacement of roof beams at Park Junior High School.

SEC. 69.5. Notwithstanding any other provision of law, any local agency which applied the tax rate limitation contained in Article XIII A of the California Constitution to property on the unsecured

roll for the 1978-79 tax year shall not collect the tax at the rate obtained by applying the rate specified in Section 12 of Article XIII of the Constitution until July 1, 1981. Any statute of limitations which may apply to the collection of the tax on property on the unsecured roll for the 1978-79 year shall be deemed to be tolled from the operative date of this section until July 1, 1981.

Those local agencies which applied a tax rate higher than the tax rate limitation contained in Article XIII A of the Constitution on property on the unsecured roll for the 1978-79 tax year may not expend during the 1980-81 fiscal year those revenues collected from the unsecured roll which exceed the amount the local agency would have collected if it had applied the tax rate limitation contained in Article XIII A.

**SEC. 69.6.** The California Supreme Court, in *Board of Supervisors of San Diego County v. Lonergan* (L.A. 31244, filed Aug. 14, 1980), and *Hanson v. County of Los Angeles* (L.A. 31241, filed Aug. 14, 1980), held that the provisions of Article XIII A of the California Constitution are inapplicable to property on the unsecured roll for the tax year 1978-79. The collection of an additional tax by those local agencies which applied the provisions of Article XIII A to property on the unsecured roll for the 1978-79 tax year would cause numerous administrative problems and the expenditure of the funds collected by those agencies which levied a tax at the higher rate would make it more difficult to provide equitable alternatives for the disposition of this revenue.

Moreover, state funds have been allocated for expenditures by the state to local agencies, including cities, counties, and districts, to supplement local tax revenues, based upon the assumption that Article XIII A applied to property on the unsecured tax roll for the 1978-79 fiscal year.

The Legislature declares that in order to permit time to consider alternatives which would mitigate the administrative problems of collecting the tax at the correct rate by those local agencies which applied the provisions of Article XIII A to property on the unsecured roll for the 1978-79 tax year and which would provide for an equitable disposition of state funds and those additional revenues collected by local agencies which applied the higher rate, it is necessary that the disposition of those additional revenues be suspended during the 1980-81 fiscal year and collection of any additional tax be delayed until July 1, 1981.

The Legislature further finds and declares that the resolution of the problems so identified are a matter of statewide concern, and the provisions of Section 69.5 of this act and this section shall apply to any city, county, or city and county, whether chartered or unchartered.

**SEC. 70.** Due to the unique circumstances concerning the school district subject to the provisions of Section 69 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. 70.5.** Due to the unique circumstances involving the con-

struction of administration facilities in Placer County, the county affected by Section 2.3 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. 70.6. (a) If the Superintendent of Public Instruction determines that there are not sufficient funds available from the amount appropriated pursuant to category (b) of Item 352 of the Budget Act of 1980 to support regional occupational centers and programs operated by county superintendents of schools, then the Superintendent of Public Instruction shall transfer funds appropriated pursuant to category (a) of Item 352 to category (b) to reduce or eliminate the insufficiency.

(b) In the event of application of Section 41972 of the Education Code to apportionments from category (a) of Item 352, transfers authorized by this section shall be similarly adjusted.

SEC. 70.7. Section 8.9 of this act shall become operative only if Assembly Bill No. 2973 of the 1979-80 Regular Session of the Legislature is chaptered.

SEC. 71. 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. 72. 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 apply for the entire 1980-81 fiscal year and to provide school districts sufficient time to plan and adopt new budgets as early as possible for the 1980-81 fiscal year, it is necessary that this act take effect immediately.

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## CHAPTER 1355

An act to add Chapter 5.5 (commencing with Section 20000) to Division 8 of the Business and Professions Code, and to amend Sections 31101, 31119 and 31125 of the Corporations Code, relating to franchises, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature Filed with  
Secretary of State October 1, 1980.]

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

SECTION 1. Chapter 5.5 (commencing with Section 20000) is added to Division 8 of the Business and Professions Code, to read:

## CHAPTER 5.5. FRANCHISE RELATIONS

### Article 1. Definitions

20000. This chapter shall be known and may be referred to as the California Franchise Relations Act.

20001. As used in this chapter, "franchise" means a contract or agreement, either expressed or implied, whether oral or written, between two or more persons by which:

(a) A franchisee is granted the right to engage in the business of offering, selling or distributing goods or services under a marketing plan or system prescribed in substantial part by a franchisor; and

(b) The operation of the franchisee's business pursuant to such plan or system is substantially associated with the franchisor's trademark, service mark, trade name, logotype, advertising or other commercial symbol designating the franchisor or its affiliate; and

(c) The franchisee is required to pay, directly or indirectly, a franchise fee.

(d) "Franchise" does not include any franchise governed by the provisions of the Petroleum Marketing Practices Act (P.L. 95-297).

(e) The term "franchise" shall not include lease departments, licenses, or concessions at or with a general merchandise retail establishment where such lease department, licensee, or concessionaire is incidental and ancillary to the general commercial operation of such retail establishment.

Sales of a leased department, license or concessionaire are incidental and ancillary to the general commercial operation of such retail establishment if they amount to less than 10 percent of such establishment's sales.

20002. A "franchisee" is a person to whom a franchise is granted.

20003. A "franchisor" is a person who grants or has granted a franchise.

20004. "Area franchise" means any contract or agreement between a franchisor and a subfranchisor whereby the subfranchisor is granted the right, for consideration given in whole or in part for such right, to sell or negotiate the sale of franchises in the name or on behalf of the franchisor.

20005. A "subfranchisor" is a person to whom an area franchise is granted.

20006. "Franchise" includes "area franchise."

20007. "Franchise fee" means any fee or charge that a franchisee or subfranchisor is required to pay or agrees to pay for the right to enter into a business under a franchise agreement, including, but not limited to, any such payment for such goods and services.

However, the following shall not be considered the payment of a franchise fee:

(a) The purchase or agreement to purchase goods at a bona fide wholesale price if no obligation is imposed upon the purchaser to purchase or pay for a quantity of such goods in excess of that which a reasonable businessman normally would purchase by way of a starting inventory or supply or to maintain a going inventory or supply.

(b) The payment of a reasonable service charge to the issuer of a credit card by an establishment accepting or honoring such credit card.

(c) Amounts paid to a trading stamp company licensed under Chapter 3 (commencing with Section 17750) of Part 3 of Division 7 by a person issuing trading stamps in connection with the retail sale of merchandise or service.

(d) The payment, directly or indirectly, of a franchise fee which, on an annual basis, does not exceed the sum of one hundred dollars (\$100).

(e) The payment of a sum of not exceeding one thousand dollars (\$1,000) annually on account of the purchase price or rental of fixtures, equipment or other tangible property to be utilized in, and necessary for, the operation of the franchised business, if the price or rental so charged does not exceed the cost which would be incurred by the franchisee acquiring the item or items from other persons or in the open market.

20008. "Person" means an individual, corporation, a partnership, a joint venture, an association, a joint stock company, a trust or an unincorporated organization.

20009. The regulations, releases, guidelines and interpretive opinions of the Commissioner of Corporations under the Franchise Investment Law (Division 5 (commencing with Section 31000) of Title 4 of the Corporations Code) regarding whether or not an agreement constitutes a "franchise" within the meaning of that law shall be prima facie evidence of the scope and extent of coverage of the definition of "franchise" under this chapter; provided, however, the burden of proving an exemption or an exception from a definition is upon the person claiming it.

20010. Any condition, stipulation or provision purporting to bind any person to waive compliance with any provision of this law is contrary to public policy and void.

## Article 2. Jurisdiction

20015. The provisions of this chapter apply to any franchise where either the franchisee is domiciled in this state or the franchised business is or has been operated in this state.

## Article 3. Termination

20020. Except as otherwise provided by this chapter, no franchisor may terminate a franchise prior to the expiration of its term, except for good cause. Good cause shall include, but not be limited to, the failure of the franchisee to comply with any lawful requirement of the franchise agreement after being given notice thereof and a reasonable opportunity, which in no event need be more than 30 days, to cure the failure.

20021. If during the period in which the franchise is in effect, there occurs any of the following events which is relevant to the franchise, immediate notice of termination without an opportunity to cure, shall be deemed reasonable:

(a) The franchisee or the business to which the franchise relates is declared bankrupt or judicially determined to be insolvent, or all or a substantial part of the assets thereof are assigned to or for the benefit of any creditor, or the franchisee admits his inability to pay his debts as they come due;

(b) The franchisee abandons the franchise by failing to operate the business for five consecutive days during which the franchisee is required to operate the business under the terms of the franchise, or any shorter period after which it is not unreasonable under the facts and circumstances for the franchisor to conclude that the franchisee does not intend to continue to operate the franchise, unless such failure to operate is due to fire, flood, earthquake or other similar causes beyond the franchisee's control;

(c) The franchisor and franchisee agree in writing to terminate the franchise;

(d) The franchisee makes any material misrepresentations relating to the acquisition of the franchise business or the franchisee engages in conduct which reflects materially and unfavorably upon the operation and reputation of the franchise business or system;

(e) The franchisee fails, for a period of 10 days after notification of noncompliance, to comply with any federal, state or local law or regulation applicable to the operation of the franchise;

(f) The franchisee, after curing any failure in accordance with Section 20020 engages in the same noncompliance whether or not such noncompliance is corrected after notice;

(g) The franchisee repeatedly fails to comply with one or more requirements of the franchise, whether or not corrected after notice;

(h) The franchised business or business premises of the franchise are seized, taken over or foreclosed by a government official in the exercise of his duties, or seized, taken over, or foreclosed by a creditor, lienholder or lessor, provided that a final judgment against the franchisee remains unsatisfied for 30 days (unless a supersedeas or other appeal bond has been filed); or a levy of execution has been made upon the license granted by the franchise agreement or upon any property used in the franchised business, and it is not discharged within five days of such levy;

- (i) The franchisee is convicted of a felony or any other criminal misconduct which is relevant to the operation of the franchise;
- (j) The franchisee fails to pay any franchise fees or other amounts due to the franchisor or its affiliate within five days after receiving written notice that such fees are overdue; or
- (k) The franchisor makes a reasonable determination that continued operation of the franchise by the franchisee will result in an imminent danger to public health or safety.

#### Article 4. Nonrenewal

20025. No franchisor may fail to renew a franchise unless such franchisor provides the franchisee at least 180 days prior written notice of its intention not to renew; and

(a) During the 180 days prior to expiration of the franchise the franchisor permits the franchisee to sell his business to a purchaser meeting the franchisor's then current requirements for granting new franchises, or if the franchisor is not granting a significant number of new franchises, the then current requirements for granting renewal franchises; or

(b) (1) The refusal to renew is not for the purpose of converting the franchisee's business premises to operation by employees or agents of the franchisor for such franchisor's own account, provided, that nothing in this paragraph shall prohibit a franchisor from exercising a right of first refusal to purchase the franchisee's business; and

(2) Upon expiration of the franchise, the franchisor agrees not to seek to enforce any covenant of the nonrenewed franchisee not to compete with the franchisor or franchisees of the franchisor; or

(c) Termination would be permitted pursuant to Section 20020 or 20021; or

(d) The franchisee and the franchisor agree not to renew the franchise; or

(e) The franchisor withdraws from distributing its products or services through franchises in the geographic market served by the franchisee, provided that:

(1) Upon expiration of the franchise, the franchisor agrees not to seek to enforce any covenant of the nonrenewed franchisee not to compete with the franchisor or franchisees of the franchisor; and

(2) The failure to renew is not for the purpose of converting the business conducted by the franchisee pursuant to the franchise agreement to operation by employees or agents of the franchisor for such franchisor's own account; and

(3) Where the franchisor determines to sell, transfer, or assign its interest in a marketing premises occupied by a franchisee whose franchise agreement is not renewed pursuant to this paragraph:

(A) The franchisor, during the 180-day period after giving notice offers such franchisee a right of first refusal of at least 30 days' duration of a bona fide offer, made by another to purchase such

franchisor's interest in such premises; or

(B) In the case of the sale, transfer, or assignment to another person of the franchisor's interest in one or more other controlled marketing premises, such other person in good faith offers the franchisee a franchise on substantially the same terms and conditions currently being offered by such other person to other franchisees; or

(f) The franchisor and the franchisee fail to agree to changes or additions to the terms and conditions of the franchise agreement, if such changes or additions would result in renewal of the franchise agreement on substantially the same terms and conditions on which the franchisor is then customarily granting renewal franchises, or if the franchisor is not then granting a significant number of renewal franchises, the terms and conditions on which the franchisor is then customarily granting original franchises. The franchisor may give the franchisee written notice of a date which is at least 30 days from the date of such notice, on or before which a proposed written agreement of the terms and conditions of the renewal franchise shall be accepted in writing by the franchisee. Such notice, when given not less than 180 days before the end of the franchise term, may state that in the event of failure of such acceptance by the franchisee, the notice shall be deemed a notice of intention not to renew at the end of the franchise term.

20026. Nothing in Section 20025 shall prohibit a franchisor from offering or agreeing before expiration of the current franchise term to extend the term of the franchise for a limited period in order to satisfy the time of notice of nonrenewal requirement of that section.

#### Article 5. Notices

20030. All notices of termination or nonrenewal required by this chapter:

- (a) Shall be in writing;
- (b) Shall be posted by registered, certified or other receipted mail, delivered by telegram or personally delivered to the franchisee; and
- (c) Shall contain a statement of intent to terminate or not renew the franchise:
  - (1) Together with the reasons therefor, and
  - (2) The effective date of such termination or nonrenewal or expiration.

#### Article 6. Offers to Repurchase Inventory

20035. In the event a franchisor terminates or fails to renew a franchise other than in accordance with the provisions of this chapter, the franchisor shall offer to repurchase from the franchisee the franchisee's resalable current inventory meeting the franchisor's present standards that is required by the franchise agreement or commercial practice and held for use or sale in the franchised

business at the lower of the fair wholesale market value or the price paid by the franchisee. The franchisor shall not be liable for offering to purchase personalized items which have no value to the franchisor in the business which it franchises.

20036. The franchisor may offset against any repurchase offer made pursuant to Section 20035 any sums owed the franchisor or its subsidiaries by the franchisee pursuant to the franchise or any ancillary agreement.

20037. Except as expressly provided herein, nothing in this article shall abrogate the right of a franchisee to sue under any other law.

#### Article 7. Arbitration

20040. Nothing contained in this chapter shall limit the right of a franchisor and franchisee to agree before or after a dispute has arisen to binding arbitration of claims under this chapter, provided that:

(a) The standards applied in such arbitration are not less than the requirements specified in this chapter; and

(b) The arbitrator or arbitrators employed in such arbitration are chosen from a list of impartial arbitrators supplied by the American Arbitration Association or other impartial person.

20041. The provisions of this chapter shall apply only to franchises granted or renewed on or after January 1, 1981.

20042. The provisions of this chapter shall not apply to franchises governed by the provisions of Article 4 (commencing with Section 3060) of Chapter 6 of Division 2 of the Vehicle Code which contain the sole remedies for the matters contained therein.

20043. If any provision of this chapter or the application thereof to any person or circumstances is held invalid, such invalidity shall not affect other provisions or applications of the chapter which can be given effect without the invalid provision or application, and to this end the provisions of the chapter are severable.

SEC. 2. Section 31101 of the Corporations Code is amended to read:

31101. There shall be exempted from the provisions of Chapter 2 (commencing with Section 31110) of this part the offer and sale of a franchise if the franchisor:

(a) Has a net worth on a consolidated basis, according to its most recent audited financial statement, of not less than five million dollars (\$5,000,000); or the franchisor has a net worth, according to its most recent audited financial statement, of not less than one million dollars (\$1,000,000) and is at least 80 percent owned by a corporation which has a net worth on a consolidated basis, according to its most recent audited financial statement, of not less than five million dollars (\$5,000,000); and

(b) Has had at least 25 franchisees conducting business at all times during the five-year period immediately preceding the offer or sale; or has conducted business which is the subject of the franchise

continuously for not less than five years preceding the offer or sale; or if any corporation which owns at least 80 percent of the franchisor has had at least 25 franchises conducting business at all times during the five-year period immediately preceding the offer or sale; or such corporation has conducted business which is the subject of the franchise continuously for not less than five years preceding the offer or sale; and

(c) Except as provided in subdivision (d), discloses in writing to each prospective franchisee, at least 10 business days prior to the execution by the prospective franchisee of any binding franchise or other agreement, or at least 10 business days prior to the receipt of any consideration, the following information:

(1) The name of the franchisor, the name under which the franchisor is doing or intends to do business, and the name of any parent or affiliated company that will engage in business transactions with franchisees.

(2) The franchisor's principal business address and the name and address of its agent in the State of California authorized to receive service of process.

(3) The business form of the franchisor, whether corporate, partnership, or otherwise.

(4) The business experience of the franchisor, including the length of time the franchisor (i) has conducted a business of the type to be operated by the franchisees, (ii) has granted franchises for such business, and (iii) has granted franchises in other lines of business.

(5) A copy of the typical franchise contract or agreement proposed for use or in use in this state.

(6) A statement of the franchise fee charged, the proposed application of the proceeds of such fee by the franchisor, and the formula by which the amount of the fee is determined if the fee is not the same in all cases.

(7) A statement describing any payments or fees other than franchise fees that the franchisee or subfranchisor is required to pay to the franchisor, including royalties and payments or fees which the franchisor collects in whole or in part on behalf of a third party or parties.

(8) A statement of the conditions under which the franchise agreement may be terminated or renewal refused, or repurchased at the option of the franchisor.

(9) A statement as to whether, by the terms of the franchise agreement or by other device or practice, the franchisee or subfranchisor is required to purchase from the franchisor or his designee services, supplies, products, fixtures or other goods relating to the establishment or operation of the franchise business, together with a description thereof.

(10) A statement as to whether, by the terms of the franchise agreement or other device or practice, the franchisee is limited in the goods or services offered by him to his customers.

(11) A statement of the terms and conditions of any financing

arrangements when offered directly or indirectly by the franchisor or his agent or affiliate.

(12) A statement of any past or present practice or of any intent of the franchisor to sell, assign, or discount to a third party any note, contract, or other obligation of the franchisee or subfranchisor in whole or in part.

(13) If any statement of estimated or projected franchisee earnings is used, a statement of such estimation or projection and the data upon which it is based.

(14) A statement as to whether franchisees or subfranchisors receive an exclusive area or territory.

(d) In the case of a material modification of an existing franchise, disclose in writing to each franchisee information concerning the specific sections of the franchise agreement proposed to be modified and such additional information as may be required by rule or order of the commissioner. Any agreement by such franchisee to such material modifications shall not be binding upon the franchisee if the franchisee, within 10 business days after the receipt of such writing identifying the material modification, notifies the franchisor in writing that the agreement to such modification is rescinded. A writing identifying the material modification is received when delivered to the franchisee. A written notice by the franchisee rescinding an agreement to a material modification is effective when delivered to the franchisor or when deposited in the mail, postage prepaid, and addressed to the franchisor in accordance with any notice provisions in the franchise agreement, or when delivered or mailed to the person designated in the franchise agreement for the receipt of notices on behalf of the franchisor.

SEC. 3. Section 31119 of the Corporations Code is amended to read:

31119. It is unlawful to sell any franchise in this state which is subject to registration under this law without first providing to the prospective franchisee, at least 10 business days prior to the execution by the prospective franchisee of any binding franchise or other agreement, or at least 10 business days prior to the receipt of any consideration, whichever occurs first, a copy of the prospectus, together with a copy of all proposed agreements relating to the sale of the franchise.

SEC. 4. Section 31125 of the Corporations Code is amended to read:

31125. (a) An application for registration of a material modification of an existing franchise or of existing franchises shall be in such form and contain such information as the commissioner may by rule prescribe, and shall be accompanied by a proposed disclosure form as specified in subdivision (b). Such an application may be included with an application pursuant to Section 31111 or 31121.

(b) It is unlawful to solicit the agreement of a franchisee to a proposed material modification of an existing franchise without first delivering to the franchisee a written disclosure, in a form and

containing such information as the commissioner may by rule or order require, identifying the proposed modification, either 10 business days prior to the execution of any binding agreement by the franchisee to such modification or containing a statement that the franchisee may, by written notice mailed or delivered to the franchisor or a specified agent of the franchisor within not less than 10 business days following the execution of such agreement, rescind such agreement to the major modification.

SEC. 5. In a regional shopping center located in a city with a population under 60,000 in a county of the first class, a franchise can be relocated within the regional shopping center with the consent of the franchisee and the management of the regional shopping center or the franchisor and the management of the regional shopping center.

SEC. 6. Sections 1 to 4, inclusive, of this act shall become operative January 1, 1981.

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 to provide continuity in franchisee-franchisor contractual relationships, it is necessary that this act go into immediate effect.

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## CHAPTER 1356

An act to amend Sections 6502, 6547, and 6571 of, and to add Sections 6542.1, 6546.7, 6546.8, 6546.9, and 6546.10 to, the Government Code, relating to fairs and exhibitions, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature. Filed with  
Secretary of State October 1, 1980]

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

SECTION 1. Section 6502 of the Government Code is amended to read:

6502. If authorized by their legislative or other governing bodies, two or more public agencies by agreement may jointly exercise any power common to the contracting parties, even though one or more of the contracting agencies may be located outside this state.

It shall not be necessary that any power common to the contracting parties be exercisable by each such contracting party with respect to the geographical area in which such power is to be jointly exercised. For purposes of this section, two or more public agencies having the power to conduct agricultural, livestock, industrial, cultural, or other fairs or exhibitions shall be deemed to have common power with respect to any such fair or exhibition

conducted by any one or more of such public agencies or by an entity created pursuant to a joint powers agreement entered into by such public agencies.

SEC. 2. Section 6542.1 is added to the Government Code, to read: 6542.1. "Fair and exhibition authority," as used in this article, means an entity created by a joint powers agreement for the purpose of financing or otherwise facilitating agricultural, livestock, industrial, cultural, or other types of fairs or exhibitions.

SEC. 3. Section 6547 of the Government Code is amended to read:

6547. The power of the entity to issue revenue bonds is additional to the powers common to the parties to the joint powers agreement, but shall not be exercised until authorized by the parties to that agreement; provided, that, in the case of the issuance of revenue bonds by a fair and exhibition authority, such authorization shall not be required. In the case of a project for the generation or transmission of electric energy, such power shall include the power to issue notes for the purpose of financing studies, the acquisition of options, permits, and other preliminary costs to be incurred prior to the undertaking of the construction or acquisition of a project, and for the purpose of providing temporary financing of costs of construction or acquisition of a project. Such notes may be issued at public or private sale, and may be renewed from time to time, and the principal and interest with respect thereto may be made payable from the revenues of the entity unless paid from the proceeds of revenue bonds.

Every local agency shall make any authorization, as permitted under the first sentence of this section, by ordinance. Except as provided herein, the ordinance shall describe in general terms the project, or projects, to be funded by the revenue bonds, the maximum amount of the bonds proposed to be issued, and the anticipated sources of revenue to redeem the bonds. In the case of a project for the generation or transmission of electric energy, the ordinance shall describe in general terms the project or the studies or other preliminary costs therefor to be funded by the revenue bonds or notes, the estimate of the maximum amount of bonds to be issued for such project or such studies or other preliminary costs, and the anticipated sources of revenue or other funds to pay the principal of and interest of such bonds or notes, provided that the statement of the estimated maximum amount of such bonds or notes shall not be deemed to prevent the authorization by such ordinance of the issuance of bonds or notes by the entity in amounts which may exceed such estimate without further authorization under such ordinance if and to the extent such additional bonds or notes shall be required to complete the financing of such project or such studies or other preliminary costs. Each such ordinance shall state that it is subject to the provisions for referendum prescribed by Section 3751.7 of the Elections Code.

A separate authorization shall be required for each separate bond

issue proposed by the entity, except that, in the case of a project for the generation or transmission of electric energy, a single authorization shall be sufficient for bonds which may be issued in installments from time to time for a project or the costs of studies or other preliminary costs therefor which shall be identified in such authorization.

The requirement of an ordinance and the right to referendum thereon shall not apply to the issuance of revenue bonds if, prior to March 4, 1971, one or more local or public agencies shall have taken formal action to implement any one or more projects to be acquired or constructed pursuant to a joint powers agreement. Formal action to implement any one or more projects shall include, but not be limited to, any of the following:

(a) The incurring of liability for a substantial portion of an architectural or engineering contract or other contract relating to a project.

(b) The acquisition of land or improvements for the project.

(c) The making of a substantial contribution toward the project.

SEC. 4. Section 6546.7 is added to the Government Code, to read:

6546.7. Public agencies may enter into a joint powers agreement for the purposes of creating a fair and exhibition authority with the power to issue revenue bonds for financing projects under this article. A fair and exhibition authority of which the Department of Food and Agriculture is a contracting party, may contract with citrus fruit fairs for the financing of projects for such fairs and may issue revenue bonds for such purpose. A fair and exhibition authority of which a county is a contracting party, which county contracts with a nonprofit corporation to conduct a fair pursuant to Sections 25905 and 25906 of the Government Code, or any similar or successor provision, may contract with such nonprofit corporation for the financing of projects for such fairs, and may issue revenue bonds for such purpose.

SEC. 5. Section 6546.8 is added to the Government Code, to read:

6546.8. (a) The California Fair and Exposition Revenue Bond Advisory Commission, consisting of seven members, is hereby created. The seven members shall be selected as follows:

(1) The State Treasurer, or his designate.

(2) The Director of Finance, or his designate.

(3) Two fiscal officers, representing county, district agricultural association, or citrus fruit fairs appointed by the Director of Food and Agriculture.

(4) Two fiscal officers, representing county, district agricultural association, or citrus fairs appointed by the State Treasurer.

(5) One public member appointed by the State Treasurer.

(b) The term of office of an appointed member shall be four years, but appointed members shall serve at the pleasure of the appointing power. In case of any vacancy, the appointing power shall make an appointment, to become effective immediately, for the unexpired term.

(c) The State Treasurer shall serve as chairperson of the commission and shall preside at meetings of the commission.

(d) Appointed members of the commission shall not receive a salary, but shall be entitled to a per diem allowance allowance of fifty dollars (\$50) for each day's attendance at a meeting of the commission, not to exceed three hundred dollars (\$300) in any month, and to reimbursement for expenses incurred in the performance of their duties under this part, including travel and other necessary expenses.

(e) The commission shall:

(1) Assist the county, district, or citrus fruit fairs in the planning, preparation, marketing, and sale of fair and exposition revenue bonds to reduce cost, protect the issuer's credit, and determine public benefits and detriments.

(2) Collect, maintain, and provide financial, economic, governmental, and social data on county, district, or citrus fruit fairs pertinent to their ability to administer revenue bonds.

(3) Prepare guidelines or assist in preparation of informational documents necessary for such offerings.

(4) Collect, maintain, and provide information on debt authorization, sold and outstanding, and serve as a clearinghouse for local issues of county, district, or citrus fruit fair revenue bonds.

(5) Maintain contact with municipal bond underwriters, credit rating agencies, investors, and others to improve the market for county, district, or citrus fruit fair revenue bond issues.

(6) Undertake or commission studies on methods to reduce the costs of bond issues pursuant to this chapter.

(7) Recommend changes in state law and local practices to improve the sale and servicing of such revenue bonds.

(8) Perform any other function required or authorized by law.

(9) Adopt rules and regulations to carry out its duties under this chapter.

(f) The commission may require notice, prior to the submission required by Section 6546.9, of proposed new revenue bonds issued pursuant to this chapter in such form and at such times as the commission specifies. However, failure to submit prior notice of a proposed new issue, if required by the commission, shall not affect the validity of the bond issue.

(g) In providing services to county, district, or citrus fruit fairs under subdivision (e), the commission shall charge fees commensurate with its direct expenses and those of the State Treasurer incurred in providing such service. Amounts received under this section shall be deposited in the General Fund and be available, when appropriated, for expenses of the commission and the State Treasurer.

(h) The commission shall meet on the call of the chairperson, or at the request of a majority of the members, or at the request of the Governor. A majority of all members of the commission constitutes a quorum for the transaction of business.

(i) All administrative and clerical assistance required by the commission shall be furnished by the office of the State Treasurer.

SEC. 6. Section 6546.9 is added to the Government Code, to read:

6546.9. All new revenue bonds issued pursuant to this chapter relating to fairs and exhibitions shall be submitted to the commission for its review and assistance, as provided in Section 6546.8.

SEC. 7. Section 6546.10 is added to the Government Code, to read:

6546.10. (a) The commission shall assist authorities established pursuant to Section 6542.1 by making determinations of public benefits and detriments pursuant to subdivision (e) of Section 6546.8.

(b) The commission shall establish, by regulation, the nature of the information required for the making of the determinations under subdivision (e) of Section 6546.8.

SEC. 8. Section 6571 of the Government Code is amended to read:

6571. The bonds shall be issued and sold as the governing body may determine and for not less than par and accrued interest to date of delivery, except that, in the case of a project for the generation or transmission of electric energy or in the case of bonds of a fair and exhibition authority, the bonds may be sold at less than par if the governing body shall determine that such a sale will result in more favorable terms for the bonds. The sale shall be conducted in compliance with Chapter 10 (commencing with Section 5800) of Division 6 of Title 1, unless, in the case of a project for the generation or transmission of electric energy or in the case of bonds of a fair and exhibition authority, the governing body shall determine that a negotiated sale of the bonds is necessary, in which case the bonds shall be sold on such terms as shall be approved by the governing body. The proceeds from the sale (except premium and accrued interest, which shall be paid into the bond service or other fund designated or established for the payment of the principal and interest of the bonds) shall be paid into the construction fund or other fund designated by the indenture authorizing the issuance of the bonds and shall be applied exclusively to the objects and purposes set forth in such indenture, including all expenses incidental thereto or in connection therewith, and also including the payment of interest on said bonds during the period of study and construction of the project and for a period not to exceed 12 months after completion of such construction.

SEC. 9. Section 6571 of the Government Code, as amended by Section 8 of this act, is amended to read:

6571. The bonds shall be issued and sold as the governing body may determine and for not less than par and accrued interest to date of delivery, except that, in the case of a project for the generation or transmission of electric energy, a project for the disposal, treatment, or conversion of energy and reusable materials of solid waste, or in the case of bonds of a fair and exhibition authority, the bonds may be sold at less than par if the governing body shall determine that

such a sale will result in more favorable terms for the bonds. The sale shall be conducted in compliance with Chapter 10 (commencing with Section 5800) of Division 6 of Title 1, unless, in the case of a project for the generation or transmission of electric energy, a project for the disposal, treatment, or conversion of energy and reusable materials of solid waste, or in the case of bonds of a fair and exhibition authority, the governing body shall determine that a negotiated sale of the bonds is necessary, in which case the bonds shall be sold on such terms as shall be approved by the governing body.

The proceeds from the sale (except premium and accrued interest, which shall be paid into the bond service or other fund designated or established for the payment of the principal and interest of the bonds) shall be paid into the construction fund or other fund designated by the indenture authorizing the issuance of the bonds and shall be applied exclusively to the objects and purposes set forth in such indenture, including all expenses incidental thereto or in connection therewith, and also including the payment of interest on said bonds during the period of study and construction of the project and for a period not to exceed 12 months after completion of such construction.

SEC. 10. It is the intent of the Legislature, if this bill and Assembly Bill 3210 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 6571 of the Government Code, and this bill is chaptered after Assembly Bill 3210, that Section 6571 of the Government Code, as amended by Section 8 of this act, shall remain operative until the effective date of Assembly Bill 3210, and that on the effective date of Assembly Bill 3210, Section 6571 of the Government Code, as amended by Section 8 of this act, be further amended in the form set forth in Section 9 of this act to incorporate the changes in Section 6571 proposed by Assembly Bill 3210. Therefore, if this bill and Assembly Bill 3210 are both chaptered and become effective on or before January 1, 1981, and Assembly Bill 3210 is chaptered before this bill and amends Section 6571 of the Government Code, Section 9 of this act shall become operative on the effective date of Assembly Bill 3210.

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. The facts constituting such necessity are:

In order that public agencies may issue revenue bonds at the earliest possible date to finance urgently needed facilities, it is necessary that this act take immediate effect.

## CHAPTER 1357

An act to add Article 17 (commencing with Section 69905) to Chapter 2 of Part 42 of the Education Code, relating to federally insured student loans.

[Became law without Governor's signature. Filed with Secretary of State October 1, 1980.]

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

SECTION 1. Article 17 (commencing with Section 69905) is added to Chapter 2 of Part 42 of the Education Code, to read:

Article 17. California Student Loan Authority

69905. This article shall be known and may be cited as the California Student Loan Authority Act.

69906. In the face of the rising cost of attending postsecondary schools, colleges, and universities, many California students do not have access to low-cost guaranteed student loans. At the same time, lack of adequate funds is a major cause of student dropouts at every collegiate level.

It is the intent of the Legislature, in the enactment of this article, to provide adequate funding to enable eligible students, including, but not limited to, first year, community college, and proprietary school students, access to educational loans, by providing a mechanism for the issuance of self-financing revenue bonds to fund the purchase of federally insured student loans from lending institutions.

69907. There is in the state government an authority known as the California Student Loan Authority. The authority constitutes a public instrumentality, and the exercise by the authority of the powers conferred by this article shall be deemed and held to be the performance of an essential public function.

69908. As used in this article, the following words and terms shall have the following meanings, unless the context clearly indicates or requires another or different meaning or intent.

“Act” means the California Student Loan Authority Act.

“Authority” means the California Student Loan Authority created by this article or any board, body, commission, department, or officer succeeding to the principal functions thereof, or to whom the powers conferred upon the authority by this article shall be given by law.

“Eligible educational institution” means an institution for postsecondary education operated publicly or privately which provides a program of education or training beyond the high school level.

“Eligible lender” means:

(1) A national or state chartered bank, savings and loan

association, or a credit union which:

(a) Is subject to examination and supervision by an agency of the United States or of this state, and

(b) Does not have as its primary consumer credit function the making or holding of loans made to students under this article or the Higher Education Act of 1965.

(2) A pension fund as defined in the federal Employees Retirement Income Security Act.

(3) An insurance company which is subject to examination and supervision by an agency of the United States or this state.

(4) Any eligible lender under the Higher Education Act of 1965.

“Higher Education Act of 1965” means the Higher Education Act of 1965 (20 U.S.C. Sec. 1001, et seq.) and all laws amendatory thereof or supplemental thereto.

“Insured student loan” means a loan, including a line of credit, to a student by an eligible lender, as to which the payment of principal and interest is fully insured either by (a) the Secretary of Education under the Higher Education Act of 1965 or (b) the Student Aid Commission and reinsured by the Secretary of Education to the extent permitted under the Higher Education Act of 1965.

“Loan guaranty” means the certificate, document, or endorsement issued by the Student Aid Commission as evidence of its insurance of an insured student loan.

“Student” means and includes any student eligible for a California Guaranteed Student Loan under regulations of the Student Aid Commission.

“Student Aid Commission” means the California Student Aid Commission or any board, body, commission, or department succeeding to the principal functions thereof, or having the powers conferred by Article 13 (commencing with Section 69760).

“Revenue bonds” or “bonds” means and includes bonds, notes, and other securities of the authority issued pursuant to this article. The use of the term bonds shall include notes unless otherwise provided.

“Secretary of Education” means the United States Secretary of Education, or the predecessor thereof, or other person, body, or board succeeding to the principal functions and powers of the secretary.

69909. The authority and such other state agencies as are directed by law are responsible for the administration of this state’s participation in the federally insured student loan program under the Higher Education Act of 1965, and no local jurisdiction shall operate or authorize or request a corporation or agency to operate for the same purpose.

69910. The authority shall consist of three members: the State Treasurer, who shall serve as chairman, the State Controller, and the Director of Finance. The Director of the Student Aid Commission and the Director of the California Postsecondary Commission shall serve as nonvoting ex officio members of the authority.

69911. The authority, on or after January 1, 1981, and annually thereafter, shall elect from its members a vice chairman and a secretary-treasurer who shall hold office until the next ensuing December 31 and shall continue to serve until their respective successors shall have been elected.

69912. The authority shall appoint an executive director, who shall not be a member of the authority and who shall serve at the pleasure of the authority. The executive director shall receive such compensation as shall be fixed by the authority, but not exceeding the annual salary of the Director of the Student Aid Commission.

The authority may employ such other persons as are necessary to enable it to properly perform the duties imposed upon it by this article.

The authority may designate one position as exempt from civil service.

69913. The authority shall be entitled to call to its assistance and avail itself of the services of such employees of any state department or agency as it may require and as may be available to it for such purpose.

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 article, including the appointment of such bond counsel as may be deemed advisable in connection with the issuance and sale of bonds.

69914. The Loan Study Council, established pursuant to Section 69769, shall, in an advisory capacity, review the authority's operations and make recommendations to the authority.

69915. The authority shall designate a certified public accountant from the private sector to annually conduct an independent examination of the books of the authority, including its receipts, disbursements, contracts, sinking funds, investments and any other matters relating to its financial standing.

69917. The executive director or other person designated by resolution of the authority shall keep a record of the proceedings of the authority and shall be custodian of all books, documents and papers filed with the authority, the minute book or journal of the authority, and its official seal. The executive director or other person may cause copies to be made of all minutes and other records and documents of the authority and may give certificates under the official seal of the authority to the effect that such copies are true copies, and all persons dealing with the authority may rely upon such certificates.

69918. Two members of the authority shall constitute a quorum. A vacancy in the membership of the authority shall not impair the right of a quorum to exercise all the rights and perform all the duties of the authority. Each meeting of the authority shall be open to the public and shall be held in accordance with the provisions of Article

9 (commencing with Section 11120) of Chapter 1 of Part 1 of Division 3 of Title 2 of the Government Code. Resolutions of the authority need not be published or posted. The authority may delegate by resolution to one or more of its members or its executive director such powers and duties as it may deem proper.

69919. The provisions of this article 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 under this article.

69920. The authority shall have power:

(a) To adopt bylaws, rules, and regulations for the regulation of its affairs and the conduct of its business.

(b) To adopt an official seal.

(c) To sue and be sued in its own name.

(d) To engage the services of private consultants to render professional and technical assistance and advice in carrying out the purposes of this article.

(e) To borrow money, and receive and accept from any agency of the United States or any agency of the State of California or any municipality, county or other political subdivision thereof, or from any individual, association, or corporation, gifts, grants or donations of moneys for achieving any of the purposes of this article.

(f) To participate in any federal government program for insured or guaranteed loans or subsidies to students and to receive, hold and disburse funds made available by any agency of the United States for the purposes of this article.

(g) To purchase or take assignments of or make commitments to purchase or take assignments of insured student loans, to contract in advance for any such student loans, and to contract in advance for any such purchase and pay any amounts payable in respect thereto. Purchases of insured student loans may be made by the authority at private or public sale, directly or through a contract with a private marketing intermediary. The authority may purchase insured student loans in any minimum average loan amount. An insured student loan shall be eligible for purchase by the authority regardless of the repayment status of the loan. The authority may advance funds to eligible lenders through warehousing agreements. Any warehousing advance shall not exceed 100 percent of the face amount of an insured student loan and shall be made at a rate to be determined by the authority, which rate shall not exceed the average of the bond equivalent rate of the 91-day United States Treasury bills auctioned during the one-week period prior to the date of any advance, plus one-half of 1 percent. The proceeds from such an advance shall be invested in additional insured student loans.

(h) To administer insured student loans or to enter into contracts or agreements with eligible lenders, upon such terms and charges as may be agreed upon between the authority and such eligible lenders, to provide for the administration by the eligible lenders of any loan or insured student loan made by the authority, including applications

therefor and repayment thereof.

(i) To hold or invest in insured student loans and to create pools of insured student loans and sell bonds backed by such pools.

(j) To sell, make commitments to sell or participate in the sale of insured student loans and to pay commitment fees or other amounts payable in connection therewith. Sales of insured student loans may be made by the authority, at public or private sale, directly or through a contract with a private marketing intermediary.

(k) To collect and to pay fees and charges in connection with the purchase, sale, and servicing of insured student loans. The authority may pay to an eligible lender an origination fee not to exceed fifty dollars (\$50) for each insured student loan purchased from such lender.

(l) To procure or maintain insurance in respect to insured student loans.

(m) To assign or pledge all or any portion of its interests in insured student loans or the revenues therefrom or related thereto and in any other of its revenues, moneys, accounts, accounts receivable, instruments, contract rights, other rights to payment of whatever kind and interest in tangible or intangible property for the benefit of holders of the authority's bonds.

(n) To consent, subject to existing contractual provisions limiting such consent, to the modification with respect to security, rate of interest, time of payment of interest or principal, or other term of a bond contract or agreement between the authority and a recipient of a loan, bondholder or agency or institution guaranteeing or insuring the repayment of a student loan.

(o) To enter into any and all agreements or contracts, execute any and all instruments, and do and perform any and all acts or things necessary, convenient, or desirable for the purposes of the authority or to carry out any power expressly given in this article.

69921. All expenses incurred in carrying out the provisions of this article shall be payable from moneys provided the authority therefor.

69922. The authority is authorized, from time to time, to issue negotiable revenue bonds in order to provide funds for achieving any of its purposes under this article.

69923. Except as may otherwise be expressly provided by the authority, each of its revenue bonds shall be 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 or notes pledging any particular revenues or moneys. Notwithstanding that such revenue bonds 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 for registration.

69924. Revenue bonds may be issued as serial bonds or as term bonds, or the authority, in its discretion, may issue bonds of both types. The issuance of all revenue bonds shall be authorized by resolution of the authority and shall bear such date or dates, mature

at such time or times, not exceeding 30 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 at such place or places, and be subject to such terms of redemption, as the indenture, trust agreement or resolution relating to such revenue bonds may provide.

69925. Revenue bonds may be sold by the State Treasurer at public or private sale for such price or prices and upon such terms and conditions as the authority shall determine. The State Treasurer may sell any revenue bonds at a price below the par value thereof; provided, however, that the discount on any bonds so sold shall not exceed 6 percent of the par value thereof.

69926. Pending preparation of the definitive bonds, the authority may issue interim receipts or certificates or temporary bonds which shall be exchanged for such definitive bonds.

69927. Any resolution or resolutions authorizing the issuance of any revenue bonds or any issue of revenue bonds may contain provisions, which shall be a part of the contract with the holders of the bonds to be authorized, as to pledging all or any part of the revenues of the authority under the provisions of this article.

69928. Neither the members of the authority nor any person executing the revenue bonds shall be liable personally on the bonds or be subject to any personal liability or accountability by reason of the issuance thereof.

69929. The authority shall have power out of any funds available therefor to purchase its bonds. The authority may hold, pledge, cancel or resell such bonds, subject to and in accordance with agreements with bondholders.

69930. In the discretion of the authority, any revenue bonds issued under the provisions of this article may be secured by a trust agreement or indenture 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, indenture or the resolution providing for the issuance of such bonds may pledge or assign the revenues of the authority under the provisions of this article. Such indenture, 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 such trust agreement or indenture may set forth the rights and remedies of the bondholders and of the trustee or trustees, and may restrict the individual right of action of bondholders. In addition to the foregoing, any such indenture, trust agreement or resolution may contain such other

provisions as the authority may deem reasonable and proper for the security of the bondholders.

69931. Revenue bonds issued under the provisions of this article shall not be deemed to constitute a debt or liability of the state or of any political subdivision thereof 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. All such bonds shall contain on the face thereof a statement to the effect that neither the State of California nor the authority shall be obligated to pay the same or the interest thereon except from certain revenues of the authority and that neither the faith and credit nor the taxing power of the State of California or of any political subdivision thereof is pledged to the payment of the principal of or the interest on such bonds. The issuance of revenue bonds under the provisions of this article 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.

69932. Any holder of revenue bonds issued under the provisions of this article or any of the coupons appertaining thereto, and the trustee or trustees under any indenture or trust agreement, except to the extent the rights herein given may be restricted by any resolution authorizing the issuance of, or any such indenture or trust agreement securing, such bonds, 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 indenture or trust agreement, and may enforce and compel the performance of all duties required by this article or by such resolution, indenture or trust agreement to be performed by the authority or by any officer, employee or agent thereof.

69933. All moneys received pursuant to this article, whether as proceeds from the sale of revenue bonds or as revenues, shall be deemed to be trust funds to be held and applied solely as provided in this article. Any officer with whom, or 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 this article and the resolution authorizing the bonds of any issue or the indenture or trust agreement securing such bonds may provide.

69934. In anticipation of the sale of its revenue bonds, the authority may issue negotiable bond anticipation notes and may renew the same from time to time. Such bond anticipation notes shall be paid from any revenues of the authority or other moneys available therefor and not otherwise pledged or from the proceeds of sale of the bonds of the authority in anticipation of which they were issued. The bond anticipation notes shall be issued in the same manner as revenue bonds and, unless the contrary is indicated, shall be governed by all the provisions of this article relating to revenue

bonds.

69935. (a) The authority is hereby authorized to provide for the issuance of bonds of the authority for the purpose of refunding any bonds or any series or issue of bonds of the authority then outstanding, including the payment of any redemption premium thereon and any interest accrued or to accrue to the date of redemption and purchase or maturity of such bonds.

(b) The proceeds of any such bonds issued for the purpose of refunding outstanding bonds may, in the discretion of the authority, be applied to the purchase or redemption prior to maturity or retirement at maturity of such outstanding bonds either on their earliest or any subsequent redemption date or upon the purchase or 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) Any such escrowed proceeds, pending such use, may be invested and reinvested in obligations of, or guaranteed by, the United States, or in certificates of deposit or time deposits secured by obligations of, or guaranteed by, the United States, 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) All such refunding bonds shall be subject to the provisions of this article in the same manner and to the same extent as other bonds issued pursuant to this article.

69936. Bonds issued by the authority under the provisions of this article are hereby made securities in which all banks, bankers, savings banks, trust companies and other persons carrying on a banking business, all insurance companies, insurance associations and other persons carrying on an insurance business, and all administrators, executors, guardians, trustees and other fiduciaries, and all other persons whatsoever who now are or may hereafter be authorized to invest in bonds or other obligations of the state, may properly and legally invest any funds, including capital belonging to them or within their control; and such bonds, notes or other securities or obligations are hereby made securities which may properly and legally be deposited with and received by any state or municipal officers or agency of the state for any purpose for which the deposit of bonds or other obligations of the state is now or may hereafter be authorized by law.

69937. Any bonds issued under the provisions of this article, their transfer, and the income therefrom, shall at all times be free from taxation of every kind by the state and by all political subdivisions in

the state.

69938. The State of California does pledge to and agree with the holders of the bonds issued pursuant to this article, and with those parties who may enter into contracts with the authority pursuant to the provisions of this article, that the state will not limit, alter or restrict the rights hereby vested in the authority to make, acquire and sell student loans and to fulfill the terms of any agreements made with the holders of bonds authorized by this article, and with the parties who may enter into contracts with the authority pursuant to the provisions of this article, or in any way impair the rights or remedies of the holders of such bonds or such parties until the bonds, together with interest thereon, are fully paid and discharged and such contracts are fully performed on the part of the authority. The authority as a public body corporate and politic shall have the right to include the pledge herein made in its bonds and contracts.

69939. A pledge by or to the authority of revenues, moneys, accounts, accounts receivable, contract rights and other rights to payment of whatever kind made by or to the authority pursuant to the authority granted in this article shall be valid and binding from the time the pledge is made for the benefit of pledgees and successors thereto. The revenues, moneys, accounts, accounts receivable, contract rights and other rights to payment of whatever kind pledged and thereafter received by the authority or its assignees shall immediately be subject to the lien of the pledge without physical delivery or further act. The lien of such pledge shall be valid and binding against all parties, irrespective of whether the parties have notice of the claim. The indenture, trust agreement, resolution or another instrument by which such pledge is created need not be recorded.

69940. The total amount of bonds authorized to be outstanding at any one time under this article shall be one hundred fifty million dollars (\$150,000,000).

69941. The entire net income of the authority, after payment of expenses, debt service, and the creation of reserves for the same, shall be deposited in the State Guaranteed Loan Reserve Fund.

69942. This article shall be deemed to provide a complete, additional and alternative method for doing the things authorized hereby and shall be regarded as supplemental and additional to powers conferred by other laws; provided, that the issuance of bonds and refunding bonds under the provisions of this article need not comply with the requirements of any other law applicable to the issuance of bonds.

69943. The Student Aid Commission shall, prior to March 31, 1983, submit to the Legislature its recommendation, and the reasons therefor, as to the advisability of expanding the functions of the authority to include direct lending to students.

69944. The authority shall make an annual report to the Legislature, the Postsecondary Education Commission and the Student Aid Commission by September 1. Such report shall include,

but not be limited to, the following:

(a) An audited financial statement as provided for in Section 69915.

(b) The total number of student loans purchased by the authority, categorized by students attending the University of California, the California State University and Colleges, the California Community Colleges, independent universities and colleges, and private schools, and subcategorized by level of instruction or year in school.

(c) The total loan amounts, and the average loan amount, categorized as specified in subdivision (b).

(d) The number of student loans purchased, categorized by type of eligible lender, as defined in Section 69908.

(e) The total loan amount and the average loan amount, categorized as specified in subdivision (d).

(f) The new loan volume and percentage change as compared to the previous year, categorized as specified in subdivision (d).

(g) The number of loans made by, and the number of loan applications made to each category of eligible lender.

69945. To the extent that the provisions of this article are inconsistent with the provisions of any other law, the provisions of this article shall be deemed controlling.

69946. Upon dissolution of the authority, title to all property owned by the authority shall vest in the successor authority created by the Legislature, if any, if such successor authority qualifies under Section 103 of the Internal Revenue Code of 1954, as amended, and the regulations promulgated thereunder as a public entity entitled to issue obligations which qualify for exemption from federal income taxation. If no such successor authority is so created, title to such property shall vest in the State of California.

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## CHAPTER 1358

An act to amend Section 1364 of the Financial Code, to amend Section 53691 of, and to add Title 10 (commencing with Section 91500) to, the Government Code, and to amend Section 1192 of the Insurance Code, relating to economic development.

[Became law without Governor's signature. Filed with  
Secretary of State October 1, 1980 ]

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

SECTION 1. Section 1364 of the Financial Code is amended to read:

1364. In evidences of indebtedness of companies incorporated in the United States and, directly or indirectly, engaged in manufacturing, extraction, merchandising or commercial financing and in bonds of authorities established pursuant to the California

Industrial Development Financing Act provided for in Title 10 (commencing with Section 91500) of the Government Code, to which such companies are obligated with respect to payment; provided:

(a) Any unsecured evidences of indebtedness must be issued by a company substantially all of whose property is free of mortgage and shall carry a covenant by the obligor that they will be secured equally with any mortgage bond, except a purchase money mortgage, which may be later issued;

(b) The company is of such size as to attract at least statewide interest in its publicly held securities and its gross income shall have averaged not less than ten million dollars (\$10,000,000) and its net income shall have averaged not less than one million dollars (\$1,000,000) for the five fiscal years preceding the investment and its gross income was not less than ten million dollars (\$10,000,000) and its net income not less than one million dollars (\$1,000,000) for at least three of said five fiscal years;

(c) Working capital as measured by consolidated current assets less consolidated current liabilities as shown in the latest published balance sheet shall exceed 150 percent of the total of consolidated debt due in longer than one year and "minority interest" (i.e., any outstanding interest in a subsidiary having a prior claim on the earnings of such subsidiary) except that the foregoing ratio requirement shall not apply in the case of evidences of indebtedness of any corporation whose consolidated gross assets less any valuation reserves exceed five hundred million dollars (\$500,000,000) and whose consolidated current assets exceed consolidated current liabilities by at least one hundred million dollars (\$100,000,000) as shown by the latest published balance sheet. When new financing is involved, the changes in gross assets, capital structure and working capital shall be considered and reliance may be placed on the representations made in the official prospectus prepared under the rules of the Securities and Exchange Commission as to the application of the proceeds of such financing.

(d) The total consolidated debt of the company including current liabilities and "minority interest" (i.e., any outstanding interest in a subsidiary having a prior claim on the earnings of such subsidiary), as shown on the latest published balance sheet, does not exceed 33 $\frac{1}{3}$  percent of its gross assets less valuation reserves; and

(e) The consolidated annual net income for the five fiscal years next preceding the investment, before deduction of state and federal taxes imposed on or measured by income or profits but after deducting all charges (including reserves, regularly recurring charges for amortization of discount, and expense allocable to funded debt); (1) shall have averaged not less than six times the annual consolidated interest charges existing at the time the investment is made; (2) in at least three of said five fiscal years shall have been at least four times the annual consolidated interest charges for the same year; and (3) for the fiscal year next preceding the investment shall

have been not less than six times the consolidated interest charges for such year and not less than six times the annual consolidated charges on the funded debt outstanding at the time of the investment.

SEC. 2. Section 53691 of the Government Code is amended to read:

53691. Notwithstanding any other provision of law, no financial or securities consultant acting in an advisory capacity to a local agency with respect to the issuance or proposed issuance of securities which exceed one million dollars (\$1,000,000) shall act in the capacity of an underwriter for the purpose of acquiring any interest in such security issue offered by such local agency, unless:

- (a) The securities are offered at a competitive public sale; and
- (b) The consultant has given the local agency written notice that the consultant intends to bid on the offering; and
- (c) The local agency has given written consent for the consultant to act as an underwriter at such sale.

SEC. 3. Title 10 (commencing with Section 91500) is added to the Government Code, to read:

## TITLE 10. CALIFORNIA INDUSTRIAL DEVELOPMENT FINANCING ACT

### CHAPTER 1. CALIFORNIA INDUSTRIAL DEVELOPMENT FINANCING

#### Article 1. General Provisions and Definitions

91500. This title may be cited as the California Industrial Development Financing Act.

91501. The Legislature hereby finds that it is necessary and essential that the state, in cooperation with the federal government, use all practical means and measures to promote and enhance economic development and increase opportunities for useful employment. The Legislature further finds that the alternative method of financing provided in this title will benefit economically distressed areas of the state and localities which are making diligent efforts to maintain and provide services to existing companies and to prevent the loss of existing jobs. The Legislature further finds that the alternative method of financing provided in this title will benefit those projects which would employ persons living within an economically distressed area, or projects which are partially funded by a job creation grant from the United States Department of Labor, the United States Department of Housing and Urban Development, or the Economic Development Administration of the United States Department of Commerce. The Legislature further finds and determines that industry within this state needs and requires new methods to finance the capital outlays required to acquire, construct, or rehabilitate facilities which will increase employment

opportunities or otherwise contribute to economic development, and the alternate method of financing provided in this division is in the public interest and serves a public purpose and will promote the health, welfare, and safety of the citizens of the State of California.

91502. It is the purpose of this title to carry out and make effective the findings of the Legislature and to that end to provide industry with an alternative method of financing in acquiring, constructing, or rehabilitating facilities in accordance with the criteria set forth in Section 91502.1, all to the mutual benefit of the people of the state and to protect their health, welfare, and safety.

91502.1. (a) The Legislature declares that it is the policy of this state, consistent with environmental, resource conservation, and other policies, to facilitate for and on behalf of private enterprise the acquisition of property, either suitable for or evidencing an obligation respecting any one or more of the activities or uses set forth in Section 91503, through the issuance of revenue bonds by authorities in accordance with the criteria set forth in subdivision (b), and that such additional method of financing when made available in accordance with such policy serves a public purpose and will promote the prosperity, health, safety, and welfare of the citizens of the State of California.

(b) The Legislature declares that the criteria to be utilized to determine whether such method of financing may be made available shall include the following:

(1) Whether employment benefits arising out of the use of the facilities may ensue by securing or increasing (i) the number of employees of the company and any other direct users of the facilities or (ii) compensation for such employment, the value of which may be expressed in terms of aggregate direct employment earnings.

(2) Whether energy, mineral or natural or cultivated resource conservation benefits arising out of the use of the facilities may ensue by the reduction of waste, improvement of recovery or intensification of utilization of resources that otherwise would be less intensively utilized, or wasted, or not recovered, the value of which may be expressed in terms of the price and amount of the energy, minerals, or other resources saved or recovered, or the price and amount of equivalent energy, minerals, or other resources which would be utilized were the resources not utilized as intensively.

(3) Whether consumer benefits arising out of the use of the facilities may ensue by (i) improvement of the quantity or quality or reduction in the price of products, energy, or related services or facilities, the value of which may be expressed in terms of quantity and price differentials; and (ii) production of new or improved products, or related services or facilities, the value of which may be expressed in terms of quantity and price.

91503. The activities or uses for which property acquired pursuant to the provisions of this article shall be suitable for one or more of the activities or uses described in subdivision (a) and shall not include any of the activities described in (and not excepted

from) subdivision (b).

(a) (1) Industrial uses including, without limitation, assembling, fabricating, manufacturing, or processing activities, with respect to any products of agriculture, forestry, mining, or manufacture.

(2) Energy development, production, collection, conversion (from one form of energy to another), storage, or conservation activities, or transmission, transportation, or conveyance as distinguished from distribution activities.

(b) (1) Residential real property for family unit or other housing activities;

(2) Sports activities;

(3) Convention or trade show activities;

(4) Airport, dock, wharve, mass commuting, or parking activities, or storage or training activities related to any thereof;

(5) Sewage or solid waste disposal activities or electric energy or gas furnishing activities, except any such activities if the property acquired is suitable for one or more of the activities described in paragraph (2) of subdivision (a);

(6) Air or water pollution control activities;

(7) Water furnishing activities;

(8) Telephone or community television furnishing activities;

(9) Industrial park land development activities;

(10) Any activities of persons qualifying as exempt persons under Section 501 of the Internal Revenue Code of 1954, as amended, undertaken by such persons.

91504. Unless the context otherwise requires, the definitions in this article shall govern the construction of this title, as follows:

(a) "Acquire" and its variants means acquire, construct, improve, furnish, equip, repair, reconstruct or rehabilitate.

(b) "Administration expenses" means the reasonable and necessary expenses incurred by an authority in the administration of the provisions of this title, including, without limitation, fees and costs of paying agents, trustees, attorneys, consultants, and others.

(c) "Authority" means any industrial development authority established pursuant to the provisions of this title.

(d) "Board" means the board of directors of an authority.

(e) "Bonds" means the bonds, including principal (premium, if any) and interest authorized to be issued by any authority under this title, including a single bond, a promissory note or notes, including bond anticipation notes, or other instruments evidencing an indebtedness or obligation.

(f) "Bond proceeds" means all amounts received by an authority upon sale or other disposition of any bonds.

(g) "Company" means a person, partnership, corporation, whether for profit or not, trust, or other private enterprise of whatever legal form for which a project is undertaken or proposed to be undertaken pursuant to this title or which is in possession of property owned by an authority, and may include more than a single enterprise.

(h) "Cost" as applied to any project, may embrace:

(1) The cost of construction, improvement, repair, and reconstruction.

(2) The cost of acquisition, including rights in land and other property, both real and personal and improved and unimproved, and franchises, and disposal rights.

(3) The cost of demolishing, removing, or relocating any building or structures on lands so acquired, including the cost of acquiring any lands to which such buildings or structures may be moved or relocated.

(4) The cost of machinery, equipment and furnishings, and of engineering and architectural surveys, plans, and specifications.

(5) The cost of consultant services, including, without limitation, legal, financial, engineering, accounting, and auditing, necessary or incident to a project and of the determination as to the feasibility or practicability of undertaking such project.

(6) The cost of financing, interest prior to, during, and for, a reasonable period after completion of a project, and reserves for principal and interest and for extensions, enlargements, additions, repairs, replacements, renovations, and improvements.

(7) The cost of acquiring or refinancing existing obligations, incident to the undertaking and carrying out, including the financing, of a project, and the reimbursement to any governmental entity or agency, or any company, of expenditures made by or on behalf of such entity, agency, or company that are costs of such project hereunder, without regard to whether or not such expenditures may have been made before or after the undertaking of a project by an authority or delivery of bonds, except for administration expenses incurred prior to the preliminary undertaking of a project by an authority.

(8) The cost of making relocation assistance payments as provided by Chapter 16 (commencing with Section 7260) of Division 7 of Title 1.

"Cost" shall not otherwise embrace working capital.

(i) "Facilities" means property suitable for any one or more of the activities or uses described in Section 91503 and includes incidental facilities.

(j) "Governing body" means the board of supervisors, or city council, as the case may be.

(k) "Indenture" means any mortgage, deed of trust, trust indenture, security agreement, or other instrument establishing a lien or security interest in, or on, property or any right, title, or interest in, or related to, property, including the revenues therefrom, given by an authority as security for its bonds.

(l) "Proceedings" means the actions taken by an authority in undertaking, carrying out, and completing a project, including, without limitation, the project agreements, indenture, bonds, and resolutions.

(m) "Project" means the acquisition of facilities by the issuance of

revenue obligations upon the application of and to be repaid by payments from a company for the purposes of this title.

(n) "Project agreements" means the agreements between an authority and a company respecting a project, and may include, without limitation, leases, subleases, options to, and installment or other contracts of, purchase, or sale, loan, or guaranty agreements, notes, mortgages, deeds of trust, and security agreements.

(o) "Property" means any land, air rights, water rights, disposal rights, improvements, buildings or other structures, and any personal property, and includes, but is not limited to, machinery and equipment, whether or not in existence or under construction, and interests in any of the foregoing, or promissory notes respecting such interests.

(p) "Public agency" means any county, city and county, or city.

(q) "Revenues" means all rents, purchase payments, and other income derived by an authority from, or with respect to, the sale, lease, or other voluntary or involuntary disposition of, or repayment of loans with respect to, property bond proceeds, and any receipts derived from the investment of any such income or proceeds in any fund or account of an authority, but does not include receipts designated to cover administration expenses.

(r) "State office" means the California Industrial Development Financing Advisory Commission established pursuant to Article 3 (commencing with Section 91550).

## Article 2. Industrial Development Authorities

91520. (a) There is in each public agency a public, corporate instrumentality of the State of California, known as the industrial development authority of the public agency. Each public agency is authorized to utilize such authority in the issuance of revenue bonds in the accomplishment of the public purposes as provided in Section 91502. Such purposes shall be deemed to constitute public purposes of the public agency, and the exercise by each authority of the powers conferred by this title, including the power to issue revenue bonds, shall be deemed to be the performance of an essential governmental function of the public agency; provided, however, that exercise of the powers conferred by this title in the achievement of such purposes shall be subject to the provisions of, and exclusively as, provided in this article.

(b) An authority shall not transact any business or exercise any powers under this article unless, by ordinance, the governing body declares that there is a need for the authority and that the authority shall function. The ordinance shall be subject to referendum in the manner prescribed by law for ordinances of the public agency.

(c) An authority shall conclusively be deemed to have been established and authorized to transact business and exercise its powers upon proof of the adoption of such an ordinance.

91521. (a) The sole purpose of an authority is to undertake

projects through the issuance of bonds in accomplishment of the purposes provided in Section 91502, and to carry out and complete such projects and perform and exercise derivative obligations and powers.

(b) The jurisdiction of an authority to undertake projects shall be coincident as to territory with the territory of the public agency.

91522. (a) All powers vested in authorities shall be exercisable as their respective boards shall provide, solely in the accomplishment of the purposes of authorities.

(b) A board shall consist of any authorized number of directors not less than three, and not more than the authorized number of members of the governing body. The authorized number of directors shall be established by resolution of the governing body from time to time, except that when the resolution provided for by Section 91523 shall have been adopted, the authorized number of directors shall be the same as the authorized number of members of the governing body.

(c) Each director shall reside within the territory of the public agency and, unless the resolution provided for by Section 91523 has been adopted, shall not be an officer or employee of the public agency.

(d) Unless the resolution provided for by Section 91523 has been adopted, the directors shall be appointed by the governing body and they shall be appointed in such a manner that they shall hold office for overlapping terms. At the time of the appointment of the first directors, the governing body shall divide the directors into three groups containing as nearly equal whole numbers as possible. The first term of the directors included in the first group shall be approximately one year, the first term of the directors included in the second group shall be approximately two years, the first term of the directors included in the third group shall be approximately three years, as determined by the governing body, and thereafter the terms of all directors shall be three years. Directors shall be eligible for reappointment for an unlimited number of terms.

(e) The directors shall serve without compensation, except that they may be reimbursed for their actual and necessary expenses incurred in the performance of their duties, or at the discretion of the governing body, 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 the principal office. In addition, at the discretion of the governing body, they may also receive a reasonable mileage charge as reimbursement for traveling expenses to and from the principal office of the authority or the place of meeting, if other than at the principal office.

(f) Should the authorized number of directors be increased by a resolution authorized by subdivision (b), the additional directors shall be appointed for terms such that, when the number of directors is divided into three groups containing as nearly equal whole numbers as possible, the expiration of the first terms of the additional

directors shall coincide with the expiration of the current terms of the directors within the same group. Should the authorized number of directors be reduced by such a resolution, the reduction shall be accomplished in accordance with the same criterion, except that a reduction, the effect of which would be to shorten the tenure of any director, shall not become effective until vacancy or expiration of term.

(g) Vacancies shall be filled by appointment of the governing body for the unexpired term, unless the authorized number of directors is reduced as provided in subdivision (f).

(h) A director's tenure shall continue until his successor has been appointed and qualified; provided, however, that a director may be removed from office by the governing body for cause after notice and opportunity for hearing.

91523. As an alternate to the appointment of directors pursuant to Section 91522, the governing body may, at its sole discretion and at any time regardless of the incumbency of any directors appointed pursuant to Section 91522, by resolution, declare itself to be the board, in which case all the rights, powers, privileges, duties, liabilities, disabilities, and immunities vested in a board shall be vested in the governing body as such board and the terms of office of any incumbents appointed pursuant to Section 91522 shall be deemed terminated. A governing body which has adopted a resolution pursuant to this section may at any time adopt the resolution provided for by Section 91522 and, thereupon, the resolution provided for by this section shall, upon the effectiveness of such resolution, be deemed repealed.

91524. (a) The principal office of an authority shall be located at the principal office of the public agency.

(b) Each authority shall have a chairperson of its board, who shall be elected by the members of the board from among its membership.

(c) Public officers of an authority consist of the chairperson and members of the board, a secretary, a treasurer, and such assistants for the secretary and the treasurer as the board may appoint. The corresponding officers of the public agency may, by designation by resolution of the board, be the secretary, the treasurer, and assistants of the authority. The secretary, the treasurer, and assistants may be compensated.

(d) An authority shall file, with the clerk of the public agency, a certificate of a majority of the authorized number of directors as to the secretary and any assistant secretaries of the authority, and such certificate shall, until superseded by a later certificate, be conclusive with respect to the authority that such person is the secretary or assistant secretary, as the case may be, of the authority.

(e) A certificate of the clerk of the public agency as to the secretary or assistant secretary of the authority, and of the secretary or assistant secretary so certified as to the incumbents of any offices, shall be conclusive with respect to the public agency and the authority that such persons are the incumbents of such offices in any

transactions of the authority authorized by this title.

91525. (a) An authority may appoint such employees and agents, including without limitation financial advisers or consultants, accountants, architects, engineers, or other experts or advisers as it requires, and determine their qualifications, duties, terms of employment or engagement, and compensation. Officers, agents, or employees of a public agency may also be agents or employees of an authority. Officers, agents, or employees of an authority shall not, by reason thereof, be deemed to be officers, agents, or employees of a public agency. An authority shall adopt personnel rules and regulations applicable to its employees.

(b) An authority may contract for such legal counsel as in its judgment is necessary or advisable to enable it to carry out its purposes, including such bond counsel as it deems advisable in connection with any proceedings.

(c) No attorney or firm of attorneys employed as counsel by a company may serve at the same time as legal counsel, including bond counsel, and no person or firm employed as financial adviser by a company may at the same time serve as financial adviser, to the authority in connection with any project or proposed project for such company.

91526. An authority may:

(a) Sue and be sued in its own name.

(b) Have an official seal.

(c) Have perpetual succession.

(d) Make and execute contracts and other instruments and documents.

(e) Make, amend, and repeal bylaws governing procedures and meetings of the board and the duties of its officers, and make, amend, and repeal rules, regulations, and policies governing the transaction of its business and the exercise of its powers.

(f) Use premises of, subject to the regulation thereof by, the public agency.

(g) Administer its funds and deposit funds in accordance with law.

(h) Use discretion in the undertaking of projects, including the establishment of reasonable priorities among the types and locations of projects and reasonable criteria regarding companies' applications for, or by which, projects may be accepted.

91527. Authorities shall have all powers necessary or appropriate for carrying out the purposes of this title including, without limitation, the following powers, together with all powers incidental thereto:

(a) To acquire property by purchase, exchange, gift, lease, contract, or otherwise, except by eminent domain.

(b) To maintain property.

(c) To dispose of property by lease, sale, exchange, donation, release, relinquishment, or otherwise.

(d) With respect to property, to: (1) charge and collect rent under any lease; (2) sell at public or private sale, with or without

public notice; (3) sell at a discount or below appraised value or for a nominal consideration, only; (4) sell on an installment payment or a conditional sales basis; (5) convey, or provide for the transfer of, property without further act of the authority, upon exercise of an option; (6) sell at a fixed or formula price, and receive for any such sale the note or notes of a company and mortgages, deeds of trust, or other security agreements respecting such property.

(e) To encumber property, including funds, whether then owned or thereafter acquired.

(f) To advance funds secured by loan agreements to finance property and charge and collect interest on such funds.

(g) To exercise all rights and to perform all obligations of the authority under the project agreements and indenture, including the right, upon any event of default by or the failure to comply with any of the obligations thereof by the lessee, purchaser, or other company thereunder, to dispose of all or part of the property to the extent authorized by the project agreements or indenture.

(h) To borrow money and issue its bonds for the purpose of paying all or any part of the costs of a project, and for any other authorized purpose, as provided in this title.

(i) To pledge and assign the revenues or any portion thereof, the project, or project agreements, and all other rights, as security for the payment of any bonds so issued and for performance of obligations under an indenture.

(j) To contract and pay compensation for professional, financial, and other services.

(k) To refund outstanding bonds of the authority without regard to the purposes of this title when the board finds that such refunding will be of benefit to a company or holders of such bonds, subject to the provisions of the proceedings.

(l) To invest and reinvest funds under the control of an authority and bond proceeds pending application thereof to the purposes for which such bonds shall have been issued, subject to the provisions of the proceedings.

(m) To acquire and hold obligations of any kind and pledge or assign the same as further security.

(n) To expressly waive any immunity of the political subdivisions of this state provided by the Constitution or laws of the United States of America to taxation by the United States of interest on bonds issued by an authority, in obtaining federal benefits.

(o) To fund administration expenses (1) by the establishment and collection of an application fee in an amount not to exceed one-fourth of 1 percent of the estimated maximum amount of bonds proposed by an application to be issued, but not less than one thousand two hundred fifty dollars (\$1,250), (2) by the acceptance of funds and other aid from the public agency and from other governmental sources authorized to provide such funds or aid, (3) by the acceptance of contributions from business, trade, labor, community, and other associations, and (4) by other authorized

means.

91528. An authority shall not have the power to operate any facility as a business, except in the event of a default on any bonds, through a trustee, for the minimum reasonable time needed to sell or otherwise dispose of the facility in accordance with the resolution or indenture.

91529. Companies may apply for financing pursuant to this article by filing with an authority an application therefor which includes all of the following:

(a) Such financial, legal, and other information as is required by an authority and as is required by the state office.

(b) An estimate of the maximum amount of bonds proposed to be issued, of the sources of amounts otherwise required for the project, and an itemization of the estimated cost and any other expenses.

(c) Sufficient other information as is necessary to a determination required to be made by subdivision (c) of Section 91530 and subdivision (b) of Section 91531.

91530. (a) Applications for projects or companies not in accordance with the reasonable priorities and criteria which an authority may establish need not be accepted and further processed by an authority.

(b) Acceptance of any application in no way obligates an authority to preliminarily undertake the project proposed.

(c) Upon acceptance of any application, the board shall determine whether it is likely that the undertaking of the project by the authority will be a substantial factor in the accrual of each of the public benefits from the use of the facilities as proposed in the application, whether the activities or uses are in accord with Section 91503, and whether the project is otherwise in accord with the purposes and requirements of this title.

(d) Upon an affirmative determination under subdivision (c), a copy of the application as then amended or supplemented, so certified by the secretary or an assistant secretary of the authority, shall be filed with the public agency, and a notice of the acceptance of the application and the filing with the public agency, naming the company, stating the estimated maximum bond issue and briefly summarizing the proposed project, shall be published pursuant to Section 6061.

(e) The company, not the authority, shall be deemed the proposer of any project, a copy of the application for which is filed pursuant to subdivision (d).

(f) The authority shall not issue bonds with respect to any project unless the public agency shall approve, conditionally or unconditionally, the project, including the issuance of bonds therefor. Action to approve or disapprove a project shall be taken within 45 days of the publication provided in subdivision (d).

(g) Upon such approval, certification thereof by the clerk or deputy clerk of the public agency shall be made to the authority, and copies of all assessments, supporting studies, notices, certifications,

declarations and environmental impact reports, and statements of the lead agency and any responsible agency in connection with environmental matters shall be transmitted to the authority.

91531. (a) Upon certification to an authority of such approval, the secretary or an assistant secretary of the authority shall transmit to the state office the fee required by the state office and information required by the state office which is provided by a company in the approved application.

(b) The state office shall review such information and shall, by express findings on the basis of such information, determine compliance with the following criteria:

(1) Public benefits, determined in accordance with the policy stated in Section 91502.1, from the use of the facilities likely will substantially exceed any public detriment from issuance of bonds in the maximum principal amount proposed in the application.

(2) Neither the completion of the project nor the operation of the facility will have the proximate effect of relocation of any substantial operations of the company from one area of the state to another or in the abandonment of any substantial operations of the company within other areas of the state, or, if such completion or operation will have either of such effects, then such completion or operation is reasonably necessary to prevent the relocation of any substantial operations of the company from an area within the state to an area outside the state.

(3) The proposed issuance of bonds qualifies for issuance under the provisions of Article 5 (commencing with Section 91656).

(c) Written notification of the determinations of the state office shall be given the authority.

(d) Upon failure of the state office to make determinations as to compliance with such criteria within 60 days of the receipt of such information, unless such time is extended by written consent of the authority, the state office shall lose jurisdiction to make such determinations, and the authority shall determine compliance with such criteria.

(e) Determinations of the state office or of an authority as provided in Section 91530 and this section shall be final and conclusive.

(f) The authority shall not issue bonds for the project until this section has been complied with.

91532. (a) A project shall be deemed to have been preliminarily undertaken by an authority when the application has been accepted, the affirmative determinations required by subdivision (c) of Section 91530 have been made, the approval of the public agency has been obtained, and a period of 30 days from the date of publication of the notice referred to in subdivision (d) of Section 91530 has expired.

(b) Preliminarily undertaking a project means that when the affirmative determinations required by subdivision (c) of Section 91531 have been made, the authority shall undertake the project by

entry into project agreements.

91533. Authorities shall undertake projects by entry into project agreements in substance not inconsistent with the following:

(a) The company shall comply with (or cause to be complied with) all legal requirements relating to the project and the operation, repair and maintenance of the facility, including (1) obtaining any rezonings or variances, building, development, and other permits and approvals, and licenses and other entitlements for use, without regard to any exemption for public projects; and (2) securing the issuance of any certificates of need, convenience, and necessity or other certificates or franchises; and shall provide satisfactory evidence of compliance.

(b) The company shall comply with all conditions imposed by the public agency in its approval of the project pursuant to subdivision (f) of Section 91530.

(c) The company shall provide, or cause to be provided by others, all amounts required for the project and all property of the project which are not to be provided as or by expenditure of bond proceeds, and in the case of any such amounts and property which the company proposes to cause to be provided by others, as by contract, grant, subsidy, loan, or other form of assistance, shall provide satisfactory evidence that such amounts and property will be provided when required.

(d) Expenditure of bond proceeds shall be supervised to assure proper application to the project.

(e) The company shall at its own expense insure, repair, and maintain the facility, pay such taxes with respect to its interests in the property of the project as the provisions of Division 1 (commencing with Section 101) of the Revenue and Taxation Code require, and pay assessments and other public charges secured by liens, upon such interests as constitute the tax base for property taxation on the same basis as other property, or shall cause the same to be provided by others to the satisfaction of the authority.

(f) The amounts payable under the project agreements to, or for, the benefit of an authority shall in the aggregate not be less than amounts sufficient (1) to pay any bonds that shall be issued by the authority to pay the cost of the project, (2) to maintain any required reserves, (3) to make payments as may be required into any sinking fund or other similar fund, and (4) to pay those administration expenses which relate to the administration of the project agreements, the indenture, and the bonds.

(g) The term shall extend at least until the date on which all such bonds and all other obligations incurred by an authority in connection with a project shall have been paid in full or adequate funds for such payment shall have been otherwise provided.

(h) Such additional provisions as in the determination of the board are necessary or appropriate to effectuate the purposes of this article, including provisions:

(1) For payments under the project agreements which include

amounts for administration expenses in addition to the amounts which the agreement is required to obligate the company or others to pay, which are incurred by an authority subsequent to the preliminary undertaking of the project by the authority;

(2) For payment before a facility exists or becomes functional, or after a facility has ceased to exist or be functional to any extent and from any cause;

(3) For payment regardless whether or not the company is in possession or is entitled to be in possession of the facility;

(4) Relating to the carrying out and completion of the project, including the allocation of responsibility between the authority and the company regarding the acquisition of property, the making of other purchases, and the contracting for construction of the project, with or without competitive bidding, and the payment therefor;

(5) That some or all of the obligations of a company shall be unconditional and shall be binding and enforceable in all circumstances whatsoever notwithstanding any other provision of law; and

(6) Relating to the use, maintenance, repair, insurance, and replacement of property of the project, such as the authority and the company deem necessary for the protection of themselves or others, including, but not limited to, liability insurance, and indemnification in the event of default.

(i) The company shall provide for the payment of relocation assistance as provided by Chapter 16 (commencing with Section 7260) of Division 7 of Title 1, and shall reimburse the authority or the public agency, as the case may be, for relocation assistance services, and notwithstanding any other provision of this title, the authority shall determine that such services are provided and that relocation assistance payments are made.

(j) Notwithstanding any other provision of this title, projects developed pursuant to this title shall be consistent with the requirements of the general plan as contained in Article 5 (commencing with Section 65300) of Chapter 3 of Title 7 at the time of entry into the project agreement, or in the event, inconsistent at that time, then at the time of sale of any bonds.

91534. No company shall, by reason of any project agreement, be deemed the agent of an authority in the carrying out of such agreement unless (and in such case only to the extent) such agreement specifically provides otherwise.

91535. (a) All bonds issued by an authority for a project shall be special obligations, only, of the authority, payable solely out of the revenues or out of the other sources specified in the proceedings.

(b) The bonds prescribed by subdivision (a) may:

(1) Be executed and delivered by the authority at any time and from time to time;

(2) Be in such type and denominations and of such terms and maturities;

(3) Be in registered or bearer form either as to principal or

interest or both and carry such conversion and reconversion privileges;

(4) Be payable as term bonds or in such installments and at such time or times not exceeding 40 years from the date thereof;

(5) Be payable in such mediums and at such place or places within or without the state;

(6) Bear interest on such amount or amounts, payable at such time or times and at such place or places within or without the state, evidenced in such manner and at such rate or rates not exceeding 10 percent per annum;

(7) Be sold below the par or face value thereof, but the sale price shall not be less than 95 percent of the par or face value of the bond;

(8) Be exchangeable for, or issuable in lieu of, such bonds; and

(9) Be issuable in temporary form pending preparation of and exchange for definitive bonds;

(10) Be executed by such officers, be authenticated, and contain such provisions not inconsistent with this article; all as shall be provided in the proceedings.

(c) If deemed advisable by the board, there may be retained in the proceedings an option to redeem prior to maturity all or any part of any bonds as may be specified in such proceedings, at such price or prices and after such notice or notices and on such terms and conditions as may be set forth in such proceedings and as may be briefly recited in the bond. Nothing in this title shall be construed to confer on an authority any right or option to redeem any bonds, except as may be provided in the proceedings under which they shall have been issued.

(d) Issuance by an authority of one or more issues of bonds for one or more purposes shall not preclude it from issuing other bonds in connection with the same project or any other project, subject to such agreements with bondholders as may then exist.

(e) Any bonds of an authority at any time outstanding may at any time, and from time to time, be refunded, including the payment of any redemption premium and accrued interest to the date of redemption, by an authority by the issuance of its refunding bonds in such amount as the board may deem necessary or appropriate. Bonds may be issued as one issue for refunding and other authorized purposes. Any refunding may be effected whether the bonds to be refunded shall have then matured or shall thereafter mature, either by sale of the refunding bonds and the application of the proceeds to the payment, purchase or redemption of the bonds to be refunded thereby, or to the investment in securities or obligations yielding amounts sufficient to pay or redeem the bonds to be refunded thereby, or by the exchange of the refunding bonds for the bonds to be refunded thereby with the consent of the holders of the bonds so to be refunded and with such cash adjustments as may be agreed, and regardless of whether or not the bonds proposed to be refunded shall be payable at the same date or different dates or shall be due serially or otherwise.

(f) Each bond shall be deemed to be an investment security under the Uniform Commercial Code and a negotiable instrument, subject only to any provisions thereof for registration or other provisions restricting transfer, and shall be deemed to have been issued for an authorized purpose of the authority in exercise of the powers granted by this article, provided that the board so determines in the proceedings and such determination is recited in the bond.

91536. In the discretion of an authority, any bonds issued under the provisions of this title may be secured by an indenture by and between the authority and a corporate trustee which may be any trust company or bank having the powers of a trust company within or without the state. Such indenture may vest in bondholders the right to remove and appoint a new trustee. The trustee may at any time own all or any part of the bonds, unless otherwise provided in the indenture. Such indenture may vest in such trustee, in trust or as agent, as provided therein and as consistent with other provisions of this section, property, rights, powers and duties, and may pledge or assign the revenues, the project agreements and any other rights as security for repayment of the bonds, subject to such agreements with bondholders as may then exist. Such indenture may contain covenants of the authority as to the acquisition of property, the disposition of any property, or part thereof, the subjecting of additional property to the lien thereof, the issuance of additional bonds, the custody, investment and application of all moneys, the creation and maintenance of reserves, the disposition of insurance or condemnation proceeds, and the use of surplus bond proceeds. Any such indenture may define events of default thereunder, which may include events of default by a company under the project agreements, may specify the action to be taken by the trustee upon an event of default, may set forth the rights and remedies of the bondholders and of the trustee, and may restrict the individual right of action by bondholders. In addition, any such indenture may contain such other provisions as the board may deem reasonable and proper and which relate in any way to the security or protection of bondholders. All expenses incurred in carrying out the provisions of such indenture shall be treated as an administration expense. Any lien or other interest established by any indenture shall be valid and binding from the date thereof, and any revenues or amounts to cover administration expenses thereafter received by, or on behalf of, an authority or trustee thereunder shall immediately be subject to the lien thereof without any further act, which lien shall be valid and binding as against all persons, irrespective of notice, without any filing or recording except a filing in the records of the authority. All revenues, excepting (unless otherwise provided) bond proceeds, shall further be deemed to be trust funds and all revenues shall be held and applied solely as provided in such indenture, but no bondholder shall, as such, be in any manner obligated to see to the proper application thereof.

91537. The issuance of bonds shall be authorized by resolution of

the board adopted at any time following the deliberations and approval provided for in Sections 91530 and 91531. The resolution may, as the board deems advisable and in accordance with the provisions of this article, provide for, or authorize the execution of an indenture providing for:

- (a) The fixing and collection of revenues;
- (b) The creation and maintenance of special funds, including reserve and sinking funds;
- (c) Limitations on expenditures of bond proceeds;
- (d) The procedure, if any, by which any contract represented by bonds may be amended or abrogated;
- (e) The acts and omissions which shall constitute, and the rights and remedies available, in an event of default. In such an event of default, the obligations of the authority may be enforced by mandamus, by the appointment of a receiver, by foreclosure of, or sale under, any indenture, by injunction, by specific performance, by equitable relief, or by any one or more of such remedies, or any other appropriate remedy; and
- (f) Any additional matters authorized to be included in an indenture or which relate to the security, protection, or return of bondholders.

91538. (a) Bonds may be sold at such prices as the board directs, at public or private sale.

(b) The aggregate principal amount of bonds of an issue pursuant to this article shall not exceed ten million dollars (\$10,000,000).

91539. Notwithstanding any other provision of law:

(a) Authorities and their revenues, amounts for administration expenses, and any other income shall be exempt from all taxes on, or measured by, income.

(b) Bonds issued by authorities shall be exempt from all property taxation and the interest on such bonds shall be exempt from all taxes on income.

(c) All property owned by authorities shall be exempt from property taxes, assessments, and other public charges secured by liens.

(d) All interests of companies in the property of projects shall, for purposes of property taxation, be subject to the provisions of Division 1 (commencing with Section 101) of the Revenue and Taxation Code, and such interests as constitute the tax base for property taxation shall be subject to such assessments and charges on the same basis as other property.

(e) "Sale" and "purchase," for the purposes of Part 1 (commencing with Section 6001) of Division 2 of the Revenue and Taxation Code, do not include any lease or transfer of title of tangible personal property constituting any project or facility to an authority by a company, nor any lease or transfer of title of tangible personal property constituting any project or facility by such authority to any company, when the transfer or lease is made pursuant to this title.

91540. (a) All property including funds, owned or held by an

authority for the purposes of this title, shall be exempt from levy and sale by virtue of execution or other judicial process. Execution or other judicial process shall not issue against such property nor shall any judgment against an authority be a charge or lien upon such property.

(b) This section does not apply to or limit the right of obligees to foreclose or otherwise enforce any indenture or the right of obligees to pursue any remedies for the enforcement of any pledge or lien given by an authority on revenues, project agreements, administration expenses or any other assets.

(c) This section does not apply to interests of companies.

91541. (a) None of the bonds of an authority or any other obligations of an authority shall be deemed to constitute a debt or liability of the state or any public agency, or a pledge of the faith and credit of the state or any public agency, but shall be payable solely from the funds provided therefor in the proceedings.

(b) The issuance of bonds shall not directly or indirectly or contingently obligate the state or any public agency to levy or to pledge any form of taxation whatsoever therefor or to make any appropriation for their payment.

(c) All 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 or the [insert name of public agency] is pledged to the payment of the principal of, premium, if any, or interest on any bond, nor is the state or such [insert “city,” “county,” or “city and county” as appropriate] in any manner obligated to make any appropriation for payment.”

(d) Neither the members of governing bodies or of boards nor any persons executing the bonds shall in any event be subject to any personal liability or accountability by reason of the issuance of such bonds.

(e) The bonds shall be only a special obligation of an authority as provided by subdivision (a) of Section 91535, and an authority shall under no circumstances be obligated to pay bonds or project costs (other than administration expenses), except from revenues and other funds received under the project agreements for such purposes, nor to pay administration expenses except from funds received under project agreements for such purposes or from funds which are made available as otherwise authorized by the proceeding or by law. All bonds shall contain on the face thereof a statement of their special obligation nature.

91542. At such time as all obligations under the project agreements respecting any particular project have been satisfied or otherwise discharged or adequately provided for and all the bonds issued to finance such project have been repaid, and all other obligations of the authority of any nature whatsoever with respect to such project have been satisfied or otherwise discharged or adequately provided for, the authority is authorized to execute such

deeds and conveyances as may be necessary to convey the project to the company and shall deliver and pay over to the public agency any remaining funds and properties of the authority which were derived from or are attributable to such project.

91543. All general or special laws or parts thereof inconsistent with this title shall be inapplicable to the exercise of any of the powers conferred under the provisions of this title. Without limiting the generality of the foregoing, the provisions of Divisions 3 (commencing with Section 11000), 4 (commencing with Section 16100), and 5 (commencing with Section 18000) of Title 2 of this code, relating to the executive department of the state, and of Division 13 (commencing with Section 21000) of the Public Resources Code, shall not be applicable to authorities.

91544. (a) Whenever the governing body, by ordinance, shall declare that there is no longer a need for an authority to, and that the authority shall not further, function, thereafter the authority shall transact no further business and exercise no further powers, the offices shall be deemed vacated, and all funds and properties shall vest in the public agency. Any net earnings of an authority shall, pursuant to this section or Section 91542, inure solely to the benefit of the public agency and not to the benefit of any company or other private person. The ordinance shall be subject to referendum in the manner prescribed by law for ordinances of the public agency. The adoption of such an ordinance shall not preclude the subsequent adoption of an ordinance pursuant to Section 91520.

(b) The state may, by appropriate legislation at any time and at its sole discretion, alter or change, consistent with the other provisions of this title, the structure, organization, programs, or activities of authorities, including cause their dissolution. Any funds or properties, or net earnings, of an authority shall, upon dissolution, be disposed of as provided in subdivision (a).

91545. Any action pursuant to Section 91544 shall have no effect on, and shall not be deemed to impair, any contracts previously entered into by an authority, including any bonds theretofore issued or other obligations theretofore incurred (relating to the subsequent issuance of bonds or otherwise), and, in the event that at the time of the taking of such action any such contracts remain unsatisfied or otherwise undischarged, the governing body shall, in such ordinance, or by other appropriate means in the event of state action and a failure of the state to provide otherwise, make provision for their satisfaction or discharge, and to that end, the public agency may undertake any performance or observance the authority is authorized to perform or observe relating to their satisfaction or discharge.

91546. This title, being necessary for the welfare of the state and its inhabitants, shall be liberally construed to effect its purposes.

91547. The State of California does hereby pledge to and agree with the holders of any bonds issued, and with those companies which may enter into project agreements with authorities, pursuant

to the provisions of this article, that the state will not alter or change the structure, organization, programs, or activities hereby vested in public agencies or authorities until such bonds are fully met or discharged and such project agreements are fully performed or discharged, on the part of authorities or public agencies, as the case may be; provided, however, that nothing herein contained shall preclude such alteration or change, if, and when, adequate provision shall have been made by law for the protection from impairment of the contracts represented by such bonds and project agreements, and such right to so alter or change is hereby reserved. Authorities are authorized to include this pledge and undertaking of the state in such bonds and project agreements.

91548. An action may be brought pursuant to Chapter 9 (commencing with Section 860) of Part 2 of Title 10 of the Code of Civil Procedure, to determine the validity of bonds, proceedings, project agreements, or indentures, including, without limiting the generality of the foregoing, the legality of all proceedings theretofore taken for or in any way connected with the establishment of the authority and its authorization to transact business and exercise its powers, and also including the legality of all proceedings, as proposed to be taken in the proceedings, project agreements, and indentures theretofore undertaken, for the authorization, issuance, sale, and delivery of bonds and the payment thereof and interest thereon, and all such matters respecting which an action may be brought pursuant to such chapter shall be subject to the provisions thereof regarding validity and incontestability.

91549. (a) Except as may be authorized by other state legislation, this title provides the exclusive authority of public agencies for the undertaking, carrying out, and completion of projects authorized by this title.

(b) Except as limited by subdivision (a), the authorizations of this title shall be regarded as supplemental and additional to powers conferred by other laws.

(c) In the exercise of any of the powers conferred, including powers relating to the offer, issuance, and sale of bonds, under the provisions of this title, authorities need not comply with the provisions of any law applicable to the exercise of similar powers except as referred to in this article.

(d) A charter city which is otherwise authorized to undertake, carry out and complete projects hereunder authorized need not comply with the provisions of this title if (1) the project is undertaken by January 1, 1982, by the adoption of a resolution or by the taking of other similar official action which describes the project in terms sufficient for identification and states a conditional or unconditional intention to undertake such project and enter into agreements with an identified company or companies relating thereto, and (2) all bonds are issued for such project by January 1, 1984.

### Article 3. California Industrial Development Financing Advisory Commission

91550. There is in state government the California Industrial Development Financing Advisory Commission, consisting of five members, as follows:

- (a) The State Treasurer, who shall serve as chairperson.
- (b) The State Controller.
- (c) The Director of Finance.
- (d) The Director of Economic and Business Development.
- (e) The Commissioner of Corporations.

Members of the commission may each designate a deputy or employee in his or her agency to act for him or her at all meetings of the commission. The first meeting shall be convened by the State Treasurer.

91551. All members of the commission shall serve thereon without compensation.

91552. The commission shall meet on the call of the chairperson, or at the request of a majority of the members, or at the request of the Governor. A majority of all members of the advisory commission constitutes a quorum for the transaction of business.

91553. All administrative and clerical assistance required by the commission shall be furnished by the office of the State Treasurer.

91554. The commission shall charge fees commensurate with its direct expenses and those of the office of the State Treasurer in performing its duties pursuant to this title. Amounts received under this section shall be deposited in the Industrial Development Fund which is hereby created and be available, when appropriated, for the expenses of the commission.

91555. The commission may:

(a) Assist authorities in the planning, preparation, marketing, and sale of industrial development revenue bonds to reduce cost, protect the issuer's credit, and determine public benefits and detriments.

(b) Collect, maintain, and provide financial, economic, governmental, and social data on local government units pertinent to their ability to administer industrial development revenue bonds.

(c) Provide assistance to local government in budgeting, accounting, and auditing systems to improve local financial management.

(d) Prepare guidelines or assist in preparation of informational documents necessary for such offerings.

(e) Collect, maintain, and provide information on debt authorized, sold and outstanding, and serve as a clearinghouse for local issues of industrial development revenue bonds.

(f) Maintain contact with municipal bond underwriters, credit rating agencies, investors, and others to improve the market for local government debt issues.

(g) Undertake or commission studies on methods to reduce the costs of state and local issues.

(h) Recommend changes in state law and local practices to improve the sale and servicing of such local bonds.

91556. The commission may assist authorities in making the determinations required by Section 91530 and may establish by regulation the nature of the information required for the making of such determinations.

91557. The commission shall establish by regulation the nature of the information required for the making of the determinations pursuant to Section 91531.

#### Article 4. Small Business Financing

91560. (a) The Legislature finds and declares that small businesses may have difficulty establishing adequate security for bonds issued by an authority in their behalf; 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 may be otherwise 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, an authority, pursuant to its project agreements with companies, may levy fees or other charges on, or require deposits from, companies receiving financing for projects under this title. Prior to levying any such fees or charges or requiring such deposits, an 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, an 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 the lesser of one million dollars (\$1,000,000) or an amount equal to the sum of the unpaid principal, interest, and premium, if any, of the outstanding 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 State 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.

#### Article 5. Industrial Revenue Bond Review

91560. (a) The commission established by Article 3 (commencing with Section 91550) shall review each issue of bonds and shall determine whether the issue is qualified for issuance under

the provisions of this article.

(b) No bonds shall be delivered by an authority in return for the purchase price unless the bond issue has been qualified under this article and no notification of the suspension or revocation of such qualification has been received by the authority which has not been vacated or modified so that the bonds qualify for issuance.

91561. (a) All issues of bonds may be qualified for issuance under this section.

(b) The commission may refuse to qualify an issue unless it finds that the proposed issuance is fair, just, and equitable to a purchaser of the bonds, and that the bonds proposed to be issued and the methods to be used by an authority in issuing them are not such as, in its opinion, will work a fraud upon the purchaser thereof.

(c) The commission may impose as a condition of qualification conditions imposing a legend condition restricting the transferability thereof, impounding the proceeds from the sale thereof, or any other condition, if the commission finds that without such condition the issuance will be unfair, unjust, or inequitable to a purchaser of the bonds. The commission may in its discretion modify or remove any such conditions when, in its opinion, they are no longer necessary or appropriate.

(d) The commission may refuse to qualify an issue of bonds proposed to be issued in exchange for one or more outstanding bonds, or bonds and claims, or partly in such exchange and partly for cash or property, unless it approves the terms and conditions of such issuance and exchange and the fairness of such terms and conditions, and may hold a hearing upon the fairness of such terms and conditions, at which all persons to whom it is proposed to issue bonds or to deliver such other consideration in such exchange have the right to appear.

(e) The commission may refuse to qualify an issue unless it finds that the bonds issued in connection with the project by the authority will be adequately secured and the revenues and other funds applicable to the payments of the bonds are, or upon the acquisition, construction, or improvement of the project which such bonds finance, will be sufficient to pay the principal of and the interest on such bonds.

91562. (a) Prior to the delivery by an authority of any bonds of an issue in return for the purchase price, the commission may summarily suspend any qualification of such issue pending final determination of any proceeding under this section. Upon the taking of any such action, the commission shall promptly notify each person specified in subdivision (b) of such action and of the reasons therefor and that upon the receipt of a written request of the authority the matter will be set for hearing to commence within 20 business days after such receipt unless the authority consents to a later date. If no hearing is requested within 35 business days of notification to the authority of the taking of such action, and none is ordered by the commission, the commission may summarily revoke the

qualification, pending which the suspension shall remain in effect. If a hearing is requested or ordered, the commission after notice and hearing in accordance with subdivision (b), may modify or vacate the suspension or extend it until final determination.

(b) The authority, the company, and the underwriter and the proposed purchaser, if any, shall be notified of the taking of action pursuant to subdivision (a) and of the opportunity of the authority for a hearing thereon before the commission.

(c) Prior to the delivery by an authority of any bonds of an issue in return for the purchase price, the commission may revoke any qualification if it finds that the proposed issuance is not fair, just, or equitable to a purchaser of the bonds, or that the bonds proposed to be issued or the method to be used by an authority in issuing them will tend to work a fraud upon the purchaser thereof.

(d) The commission may vacate or modify a suspension or revocation of qualification if it finds that the reasons for the suspension or revocation do not or no longer exist or that the reasons which do exist are not such as support a conclusion that the proposed issuance is not fair, just, or equitable to a purchaser of the bonds, or that the bonds proposed to be issued or the method to be used by an authority in issuing them will tend to work a fraud upon the purchaser thereof.

91563. (a) The aggregate amount of bonds qualified pursuant to this title shall not exceed two hundred million dollars (\$200,000,000).

(b) Each authority shall file with the commission reports at such times as are required by the commission, setting forth the bonds of an issue qualified by the commission or exempt from qualification or not required to be so qualified.

(c) The commission shall determine when the limitation of subdivision (a) has been reached and shall notify all authorities that no further bonds shall be qualified pursuant to this title.

91564. (a) Neither (1) the fact that an application for qualification has been filed nor (2) the fact that an issue of bonds has been qualified constitutes a finding by the commission that any document filed in connection with such qualification is true, complete, or not misleading. Neither any such fact nor the fact that an exemption is available means that the commission has passed in any way upon the merits or qualifications of, or recommended or given approval to any issue of bonds except as provided in subdivision (d) of Section 91561.

(b) It is unlawful to make or cause to be made to any purchaser any representation inconsistent with subdivision (a).

(c) Every notification of qualification issued by the commission shall recite that the qualification is permissive, only, and does not constitute a recommendation or endorsement of the bonds so qualified.

SEC. 3. Section 1192 of the Insurance Code is amended to read: 1192. Excess funds investments may be made in:

(a) Interest-bearing obligations issued by a corporation organized

under the laws of any state, or of the United States, or of the District of Columbia, or of the Dominion of Canada or of any province of the Dominion of Canada, or issued by an authority established pursuant to the California Industrial Development Financing Act provided for in Title 10 (commencing with Section 91500) of the Government Code, to which such a corporation is obligated with respect to payment, or

(b) Equipment trust obligations or certificates, or other adequately secured instruments, evidencing an interest in or lien upon transportation equipment used or to be used by a common carrier or common carriers and a right to receive determined portions of fixed obligatory payments for the use or purchase of such equipment, when such obligations, certificates or instruments are issued by a corporation specified in paragraph (a) or are unconditionally guaranteed or assumed by such a corporation as to principal and as to interest or dividends and as to the payment of such fixed obligatory payments or the payment of such determined portions thereof.

SEC. 4. Notwithstanding Sections 2229 and 2230 of the Revenue and Taxation Code, no local agency or school district shall receive reimbursement for any property tax and sales or use tax revenues lost pursuant to this act. Furthermore, this act does not create any present or future obligation to reimburse the agency or district for any revenues lost because of this act.

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## CHAPTER 1359

An act relating to local land use planning, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature. Filed with  
Secretary of State October 1, 1980.]

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

SECTION 1. The Legislature finds and declares that several coastal counties have been involved in litigation relative to the adequacy of their general plans since 1978, and that such litigation has resulted in the counties being enjoined from approving

development projects within their territory until such time they adopt a complete general plan which meets all of the requirements of the Local Planning Law. The Legislature further finds and declares that in attempting to comply with the court orders to revise their general plans, these coastal counties are currently engaged in a two-phase process which involves the efforts of the counties and the State Coastal Commission in preparing general plans and local coastal programs for the coastal areas of the counties, as well as the efforts of the counties in revising their general plans relative to all areas and issues which will not otherwise be addressed in their local coastal programs. The Legislature recognizes that because of this two-phased effort, each portion of the general plan may be completed on a different date.

SEC. 2. In view of the findings of Section 1 of this act, the counties described in Section 1 of this act shall adopt general plans for all areas of their counties not within the coastal zone, which meet all the requirements of Article 5 (commencing with Section 65300) of Chapter 3 of Division 1 of Title 7 of the Government Code, not later than May 1, 1981. Notwithstanding the requirements of Article 5 that a general plan be countywide in scope, the general plans prepared pursuant to this section for the areas not within the coastal plan shall have the same effect with regard to those areas as if the general plans were countywide. Not later than July 1, 1981, the counties shall adopt general plans for the entire area of their counties, including the areas within the coastal zones, which meet all the requirements of Article 5; provided, however, that Sections 1 and 2 of this act shall not be construed to limit the requirements of the California Coastal Act (Division 20 (commencing with Section 30000) of the Public Resources 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 to revise and clarify provisions in existing law relative to the approval and certification of local coastal programs and to facilitate efforts of certain counties to adopt general plans meeting the requirements of existing state planning law, it is necessary that this act take effect immediately.

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## CHAPTER 1360

An act to amend Section 30170 of the Public Resources Code, relating to the California coastal zone, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature Filed with  
Secretary of State October 1, 1980.]

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

SECTION 1. Section 30170 of the Public Resources Code is amended to read:

30170. In San Diego County:

(a) In the City of Oceanside, approximately 500 acres are excluded as specifically shown on maps 30A and 31.

(b) In the City of Carlsbad, approximately 180 acres in the downtown area, except for the Elm Street corridor, are excluded as specifically shown on map 31.

(c) In the City of Carlsbad the area lying north of the Palomar Airport as generally shown on maps 31 and 32 and as specifically described in this subdivision is excluded.

Those portions of lots "F" and "G" of Rancho Agua Hedionda, part in the City of Carlsbad and part in the unincorporated area of the County of San Diego, State of California, according to the partition map thereof No. 823, filed in the office of the county recorder of such county, November 16, 1896, described as follows:

Commencing at point 1 of said lot "F" as shown on said map; thence along the boundary line of said lot "F" south 25° 33' 56" east, 229.00 feet to point 23 of said lot "F" and south 54° 40' 19" east, 1347.00 feet; thence leaving said boundary line south 35° 19' 44" west, 41.28 feet to the true point of beginning, which point is the true point of beginning, of the land described in deed to Japatul Corporation recorded December 8, 1975, at recorder's file/page No. 345107 of official records to said county; thence along the boundary line of said land south 35° 19' 44" west, 2216.46 feet and north 53° 02' 49" west, 1214.69 feet to the northeast corner of the land described in deed to Japatul Corporation recorded December 8, 1975, at recorder's file/page No. 345103 of said official records; thence along the boundary lines of said land as follows: West, 1550 feet, more or less, to the boundary of said lot "F"; south 00° 12' 00" west, 550 feet, more or less, to point 5 of said lot "F"; south 10° 25' 10" east along a straight line between said point 5 and point 14 of said lot "F", to point 14 of said lot "F": thence along the boundary of said lot "F" south 52° 15' 45" east (record south 51° 00' 00" east) 1860.74 feet more or less to the most westerly corner of the land conveyed to James L. Hieatt, et ux, by deed recorded June 11, 1913, in Book 617, page 54 of deed, records of said county; thence along the northwesterly and northeasterly boundary of Hieatt's land as follows: North 25° 00' 00" east, 594.00 feet and south 52° 15' 45" east (record south 51° 00' 00" east per deed) 1348.61 feet to a point of intersection with the northerly line of Palomar County Airport, said point being on the boundary of the land conveyed to Japatul Corporation by deed recorded December 8, 1975, at recorder's file/page No. 345107 of said official records; thence along said boundary as follows: North 79° 10'

00" east, 4052.22 feet north 10° 50' 00" west, 500.00 feet; north 79° 10' 00" east 262.00 feet, south 10° 50' 00" east, 500.00 feet; north 79° 10' 00" east, 1005 feet, more or less, to the westerly line of the land conveyed to the County of San Diego by deed recorded May 28, 1970, at recorder's file/page No. 93075 of said official records; thence continuing along the boundary of last said Japatul Corporation's land north 38° 42' 44" west, 2510.58 feet to the beginning of a tangent 1845.00 foot radius curve concave northeasterly; along the arc of said curve through a central angle of 14° 25' 52" a distance of 464.70 feet to a point of the southerly boundary of the land allotted to Thalia Kelly Considine, et al, by partial final judgment in partition, recorded January 18, 1963, at recorder's file/page No. 11643 of said official records; thence continuing along last said Japatul Corporation's land south 67° 50' 28" west, 1392.80 feet north 33° 08' 52" west, 915.12 feet and north 00° 30' 53" west, 1290.37 feet to the southerly line of said land conveyed to the County of San Diego, being also the northerly line of last said Japatul Corporation's land; thence along said common line north 74° 57' 25" west, 427.67 feet to the beginning of a tangent 2045.00 foot radius curve concave northerly; and westerly along the arc of said curve through a central angle of 16° 59' 24", a distance of 606.41 feet to the true point of beginning.

And those properties known as assessors parcel Nos. 212-020-08, 212-020-22, and 212-020-23.

Excepting therefrom, that portion, if any, conveyed to the County of San Diego, by quitclaim deed recorded January 12, 1977, at recorder's file/page No. 012820 of said official records.

No development may occur in the area described in this subdivision until a plan for drainage of the parcel to be developed has been approved by the local government having jurisdiction over the area after consultation with the commission and the Department of Fish and Game. The plan shall assure that no detrimental increase occurs in runoff of water from the parcel to be developed and shall require that the facilities necessary to implement the plan are installed as part of the development.

(d) In the City of Carlsbad and adjacent unincorporated areas, approximately 600 acres consisting of the Palomar Airport and an adjoining industrial park are excluded as specifically shown on maps 31 and 32.

(e) An area consisting of approximately 333 acres lying west and south of the Palomar Airport and bounded on the south by Palomar Airport Road is excluded as specifically shown on maps 31 and 32.

No development may occur in the area described in this subdivision until a plan for drainage of the parcel to be developed has been approved by the local government having jurisdiction over the area after consultation with the commission and the Department of Fish and Game. The plan shall assure that no detrimental increase occurs in runoff of water from the parcel to be developed and shall require that the facilities necessary to implement the plan are

installed as part of the development.

(f) On or before October 1, 1980, the commission shall, after public hearing and in consultation with the City of Carlsbad, prepare, approve, and adopt a local coastal program for the following parcels in the vicinity of Batiquitos Lagoon within the City of Carlsbad: lands owned by Rancho La Costa, a registered limited partnership, lands (consisting of approximately 80 acres) owned by Standard Pacific of San Diego, Inc., that were conveyed by Rancho La Costa on October 8, 1977, and lands owned by the Occidental Petroleum Company. Such parcels shall be determined by ownership as of September 12, 1979. As used in this subdivision, "parcels" means the parcels identified in this paragraph. The local coastal program required by this subdivision shall include all of the following elements:

- (1) Protection of agricultural lands and uses to the extent feasible.
- (2) Minimization of adverse impacts from sedimentation.
- (3) Protection of feasible public recreational opportunities.
- (4) Provision for economically feasible development consistent with the three elements specified in this subdivision.

The local coastal program required by this subdivision shall, after adoption by the commission, be deemed certified and shall for all purposes of this division constitute certified local coastal program segments for those parcels in the City of Carlsbad. The segments of the city's local coastal program for those parcels may be amended pursuant to the provisions of this division relating to the amendment of local coastal programs.

If the commission fails to adopt such local coastal program within the time limits specified in this subdivision, those parcels shall be excluded from the coastal zone and shall no longer be subject to the provisions of this division. It is the intent of the Legislature in enacting this subdivision that a procedure to expedite the preparation and adoption of a local coastal program for those parcels be established so that the public and affected property owners know as soon as possible what the permissible uses of such lands are.

(g) In the vicinity of the intersection of Del Mar Heights Road and the San Diego Freeway, approximately 250 acres are excluded as specifically shown on map 33.

(h) In the vicinity of the intersection of Carmel Valley Road and the San Diego Freeway, approximately 45 acres are added as specifically shown on map 33.

In the City of San Diego, the Carmel Valley area consisting of approximately 1,400 acres as shown on Map 33 which has been placed on file with the Secretary of State on January 23, 1980, shall be excluded from the coastal zone after the City of San Diego submits, and the commission certifies, a drainage plan and a transportation plan for the area. The city shall implement and enforce the certified drainage and transportation plans. Any amendments or changes to the underlying land use plan for the area that affects drainage, or to either the certified drainage or transportation plan, shall be

reviewed and processed in the same manner as an amendment of a certified local coastal program pursuant to Section 30514. Any land use not in conformance with the certified drainage and transportation plans may be appealed to the commission pursuant to the appeals procedure as provided by Chapter 7 (commencing with Section 30600). The drainage plan and any amendments thereto shall be prepared after consultation with the Department of Fish and Game and shall ensure that problems resulting from water runoff, sedimentation, and siltation are adequately identified and resolved.

(i) Near the head of the south branch of Los Penasquitos Canyon, the boundary is moved seaward to the five-mile limit as described in Section 30103 and as specifically shown on map 33.

(j) In the City of San Diego, approximately 1,855 acres known as the Mount Soledad and La Jolla Mesa areas are added as specifically shown on map 34; provided, however, that on or before February 29, 1980, and pursuant to either subdivision (d) of Section 30610 or Section 30610.5, the commission shall exclude from coastal development permit requirements any single family residence within the area specified in this subdivision. No coastal development permit shall be required for any improvement, maintenance activity, relocation, or reasonable expansion of any commercial radio or television transmission facilities within the area specified in this subdivision unless any such proposed activity could result in a significant change in the density or intensity of use in such area or could have a significant adverse impact on highly scenic resources of public importance; provided, however, that no prior review by the commission of any such activity shall be required.

(k) In the City of San Diego, approximately 30 acres known as the Famosa Slough is added as specifically shown on maps 34 and 35.

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 ensure proper planning for the area provided for in this act, it is necessary that the provisions of this act become effective immediately.

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## CHAPTER 1361

An act to amend Sections 68525, 69948, 70045.8, 73706, and 74940 of, to add Sections 68091, 68096, and 70050.6 to, and to repeal Chapter 12 (commencing with Section 76000) of Title 8 of, the Government Code, and to amend Sections 890 and 1143 of the Penal Code, relating to courts.

[Became law without Governor's signature Filed with  
Secretary of State October 1, 1980 ]

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

SECTION 1. Section 68091 is added to the Government Code, to read:

68091. Except as otherwise provided by law, the board of supervisors in each county may specify by ordinance the compensation and mileage for members of the grand jury in that county.

SEC. 2. Section 68096 is added to the Government Code, to read:

68096. In Tuolumne County, witnesses when legally required to attend upon the superior court in criminal cases and upon the juvenile court in juvenile court matters, shall be paid six dollars (\$6) a day for each day's actual attendance, and twelve cents (\$.12) for each mile actually traveled. The county clerk shall certify to the auditor the number of days' attendance and the number of miles traveled by each witness. The auditor shall draw his warrant for the fees and mileage due the witness, and the treasurer shall pay the warrant.

SEC. 3. Section 68525 of the Government Code is amended to read:

68525. (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 Madera, Monterey, Sutter, or Tehama 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 any such 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 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 of reporting proceedings, and the compensation received for this purpose.

SEC. 4. Section 69948 of the Government Code is amended to read:

69948. (a) The fee for reporting testimony and proceedings in contested cases is fifty-five dollars (\$55) a day, or any fractional part thereof.

(b) In San Joaquin County, the board of supervisors may, by

ordinance, prescribe a higher rate of compensation for superior court reporters.

(c) In Madera County, the fee for reporting testimony and proceedings in contested cases is seventy-five dollars (\$75) a day, or any fractional part thereof.

(d) In Kings County, the fee for reporting testimony and proceedings in contested cases is seventy dollars (\$70) a day, or any fractional part thereof.

(e) In Mariposa County, the fee for reporting testimony and proceedings in contested cases is seventy dollars (\$70) a day, or any fractional part thereof.

(f) In Siskiyou County, the board of supervisors may, by ordinance, prescribe a higher rate of compensation for superior court reporters.

(g) In Yuba County, the fee for reporting testimony and proceedings in contested cases is seventy-five dollars (\$75) a day, or any fractional part thereof.

(h) In Butte County, pro tempore reporters shall receive a fee of seventy-five dollars (\$75) a day, or any fractional part thereof, for reporting testimony and proceedings in contested cases.

(i) In Sutter County, the fee for reporting testimony and proceedings in contested cases is seventy-five dollars (\$75) a day, or any fractional part thereof.

(j) In Napa County, the board of supervisors may, by ordinance, prescribe a higher rate of compensation for superior court reporters.

(k) In Tehama County, the board of supervisors may, by ordinance, prescribe a higher rate of compensation for superior court reporters.

(l) In Monterey County, the fee for reporting testimony and proceedings in contested cases in any court is seventy-five dollars (\$75) a day or any fractional part thereof.

(m) In Nevada County, the board of supervisors may, by ordinance, prescribe a higher rate of compensation for superior court reporters.

(n) In Calaveras County, the fee for reporting testimony and proceedings in contested cases is seventy-five dollars (\$75) per day, or any fractional part thereof.

(o) In Placer County, the board of supervisors may, by ordinance, prescribe a higher rate of compensation for superior court reporters.

(p) In Sierra County, the fee for reporting testimony and proceedings in contested cases is seventy-five dollars (\$75) per day, or any fractional part thereof.

(q) In Trinity County, the board of supervisors may, by ordinance, prescribe a higher rate of compensation for superior court reporters.

SEC. 4.5. Section 70045.8 of the Government Code is amended to read:

70045.8. 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 Butte County:

(a) The regular full-time official court reporters shall perform the following duties:

- (1) Report all criminal proceedings.
- (2) Report all civil commitment proceedings and all contempt proceedings.
- (3) Report all juvenile proceedings other than those heard by juvenile court referee or traffic hearing officer.
- (4) Report all family law proceedings.
- (5) Report all civil jury trials.
- (6) Report all hearings on petitions for extraordinary relief, including but not limited to proceedings for injunctions, mandate, prohibition, certiorari, review, habeas corpus, and coram nobis.
- (7) Report all proceedings of the grand jury when requested by the foreman, or by the district attorney or by the county counsel.
- (8) Any other court proceedings when a party requests a court reporter in accordance with rules of court.
- (9) Report the preliminary examination of those accused of crimes before magistrates within Butte County.
- (10) Report coroner's inquests when requested by the coroner.
- (11) Report proceedings for the Butte County Board of Equalization when requested by the board.

(b) Each regular full-time court reporter shall be paid at a monthly salary rate established according to the following salary schedule:

(Range)	(Month)	(Annual)
A .....	\$1,698.66	\$20,384
B .....	1,802.66	21,632
C .....	1,872.00	22,464
D .....	1,967.33	23,608
E .....	2,064.83	24,778

Each such reporter shall receive a monthly salary under the schedule corresponding to the length of time that as an official court reporter he has been included within either directly or indirectly by contract the Public Employees' Retirement System of the State of California. Except as provided herein, the initial hiring rate for each position shall be step A, provided further, 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 qualification as to entitle that individual to such higher initial step. A step advancement from step A to step B may be granted on the first day of the month following the completion of six full months of service in the position. A person may advance to steps C, D, and E upon completion of successive 12-month periods of service. All merit increases as provided herein shall be made at the determination of the judges of the superior court.

In addition to the aforementioned compensation, each official court reporter shall receive twenty-five dollars (\$25) per month as reimbursement for the cost of necessary supplies.

In the event a cost-of-living increase is given to the employees of Butte County, the aforementioned salary schedule shall be deemed amended so as to give the court reporters the same cost-of-living increase as is given Butte County employees. Such changes in compensation made pursuant to these provisions shall be on an interim basis and shall expire on January 1 of the second year after the calendar year in which the change occurs, unless ratified by the Legislature.

The foregoing salary is for compensation for reporting services in the superior court under subdivision (a) of this section. For all transcriptions incident to reporting services, each reporter shall receive the fees provided for in Article 9 (commencing with Section 69941) of this chapter.

The regular full-time official court reporters shall be entitled to the same privileges with respect to retirement, vacation, sick leave, and group insurance, which either now or hereafter may be provided by ordinance to other employees of the said county.

(c) When the regular full-time official court reporters are occupied in the performance of their duties and services pursuant to the provisions of subdivision (a), the judge or judges of the superior court may appoint as many additional official court reporters, who shall be known as official reporters pro tempore, as the business of the courts may require in order that the judicial business of the court in such county may be carried on without delay. They shall be paid in accordance with the per diem, transcription, and other fee provisions of Article 9 (commencing with Section 69941) of this chapter. Such per diem, traveling and other expenses, and the fees chargeable to the county under the terms of these provisions shall be a proper county charge.

SEC. 5. Section 70050.6 is added to the Government Code, to read:

70050.6. (a) In Tuolumne County, the official reporters of the superior court shall perform the following duties:

- (1) Report all criminal proceedings.
- (2) Report all civil proceedings.
- (3) Report all domestic relations proceedings.
- (4) Report all proceedings of the grand jury.
- (5) Report all coroner's inquests.

(b) The official reporters of Tuolumne County shall receive a salary as established by the Board of Supervisors of Tuolumne County. Such salary is for compensation for reporting services in the superior court under subdivision (a) of this section.

For all transcriptions 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 court reporter shall also be allowed his or her actual traveling expenses when reporting

outside of the county seat.

SEC. 6. Section 73706 of the Government Code, as amended by Chapter 829 of the Statutes of 1980, is amended to read:

73706. 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 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. 6.5. Section 74940 of the Government Code is amended to read:

74940. Whenever reference is made to a range number in any section of this article, the following schedule of biweekly salaries shall apply:

Range Number	Hourly Rate	Salary Steps				
		A	B	C	D	E
8.0	4.19	335	351	369	389	405
8.5	4.26	341	360	376	397	416
9.0	4.39	351	369	389	405	426
9.5	4.50	360	376	397	416	437
10.0	4.61	369	389	405	426	447
10.5	4.70	376	397	416	437	460
11.0	4.86	389	405	426	447	470
11.5	4.96	397	416	437	460	483
12.0	5.06	405	426	447	470	494
12.5	5.20	416	437	460	483	506
13.0	5.33	426	447	470	494	517
13.5	5.46	437	460	483	506	530
14.0	5.59	447	470	494	517	543
14.5	5.75	460	483	506	530	559
15.0	5.88	470	494	517	543	571
15.5	6.04	483	506	530	559	585
16.0	6.18	494	517	543	571	599
16.5	6.33	506	530	559	585	614
17.0	6.46	517	543	571	599	629
17.5	6.63	530	559	585	614	645
18.0	6.79	543	571	599	629	662
18.5	6.99	559	585	614	645	677
19.0	7.14	571	599	629	662	694
19.5	7.31	585	614	645	677	711
20.0	7.49	599	629	662	694	729
20.5	7.68	614	645	677	711	746
21.0	7.86	629	662	694	729	764
21.5	8.06	645	677	711	746	784
22.0	8.28	662	694	729	764	803
22.5	8.46	677	711	746	784	823

SEC. 7. Chapter 12 (commencing with Section 76000) of Title 8 of the Government Code is repealed.

SEC. 8. Section 890 of the Penal Code is amended to read:

890. Unless a higher fee or rate of mileage is otherwise provided by statute or county or city and county ordinance, the fees for grand jurors are ten dollars (\$10) a day for each day's attendance as a grand juror, and fifteen cents (\$.15) a mile, in going only, for each mile actually traveled in attending court as a grand juror.

SEC. 8.5. Section 1143 of the Penal Code is amended to read:

1143. Unless a higher fee or rate of mileage is otherwise provided by statute or county or city and county ordinance, the fees of jurors in the superior and municipal courts and justice courts of the state, in criminal cases, shall be five dollars (\$5), in lawful money of the United States, for each day's attendance, and mileage, to be computed at the rate of fifteen cents (\$.15) per mile for each mile necessarily traveled in attending court, in going only. Such fees and mileage shall be paid by the treasurer of the county, or city and county, in which the juror's services were rendered, out of the general fund of said county, or city and county, upon warrants drawn by the county auditor upon the written order of the judge of the court in which said juror was in attendance, and the treasurer of said county, or city and county, shall pay said warrants. The board of supervisors of each county, or city and county, is hereby directed to make suitable appropriations for the payment of the fees herein provided for.

SEC. 9. The Legislature hereby finds and declares that, in view of its constitutionally delegated responsibility of setting salaries for county reporters, it is necessary to obtain information regarding the total compensation paid to court reporters from all sources so as to allow proper evaluation of legislative proposals relating to court reporters' salaries on an ongoing basis.

Such legislative proposals are not made on a uniform, statewide basis, but on a county-by-county basis. Therefore, it is necessary to monitor the compensation provided court reporters on an individual county basis reflecting the periodic legislative proposals which are made for specific counties. Accordingly, this legislation affecting Monterey County and Tehama County is necessary to permit the Legislature to carry out its constitutionally delegated responsibility of setting court reporters' salaries in such counties in view of the submitted request for an adjustment in the compensation provided to court reporters in such counties.

SEC. 10. If any provision of Section 3 or 4 of this act, or the application thereof, is enjoined, restrained, or otherwise held invalid, then every other provision or application of such provisions shall be void, and to this end the provisions of such sections are inseverable.

SEC. 11. Section 3 of this act shall not become operative if Assembly Bill No. 1099 of the 1979-80 Regular Session of the Legislature is enacted and repeals Section 68525 of the Government Code.

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.

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## CHAPTER 1362

An act to amend Section 70055.2 of the Government Code, relating to courts.

[Became law without Governor's signature. Filed with  
Secretary of State October 1, 1980 ]

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

SECTION 1. Section 70055.2 of the Government Code is amended to read:

70055.2. In a county with a population of 500,000 or more and under 557,000, as determined by the 1970 federal census, the fee required by Section 70053 shall be twenty dollars (\$20).

SEC. 2. Section 70055.2 of the Government Code is amended to read:

70055.2. A reporter's filing fee of twenty dollars (\$20) shall be paid in actions and proceedings as specified in Section 68090.5, in the San Mateo Superior Court.

SEC. 3. Section 2 of this bill shall become operative only if Senate Bill 109 of the 1979-80 Regular Session is chaptered and becomes operative, in which case Section 1 of this bill shall not become operative.

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## CHAPTER 1363

An act to amend Section 6140.3 of, and to add and repeal Section 6140 of, the Business and Professions Code, relating to the State Bar of California.

[Became law without Governor's signature. Filed with  
Secretary of State October 1, 1980 ]

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

SECTION 1. Section 6140 is added to the Business and Professions Code, to read:

6140. (a) The board shall fix the annual membership fee as follows:

(1) For active members who have been admitted to the practice of law in this state for three years or longer at a sum not exceeding one hundred thirty dollars (\$130).

(2) For active members who have been admitted to the practice of law in this state for less than three years preceding the first day of February of the year for which the fee is payable, at a sum not exceeding seventy-five dollars (\$75).

(b) For the years commencing January 1, 1973, and ending December 31, 1982, the board may increase the annual membership fee fixed pursuant to subdivision (a) by an additional amount not exceeding ten dollars (\$10) in any or all of such years, the additional amount in any year to be applied only to the cost of land and buildings to be used to conduct the operations of the State Bar, including furniture, furnishings, equipment, architects' fees, construction and financing costs, landscaping and other expenditures incident to the acquisition, construction, furnishing and equipping of such land and buildings, the payment of interest on and the repayment of moneys borrowed for such purposes, and the reimbursement of the State Bar's treasury expended for such purposes.

(c) The annual membership fee for active members is payable on or before the first day of February of each year.

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 6140.3 of the Business and Professions Code is amended to read:

6140.3. (a) It is the intent of the Legislature that the State Bar be invested with that authority which would most effectively enable it to accomplish its purposes and that the State Bar conduct its activities in a manner that is efficient, frugal, and in accordance with sound management practices. To effectuate such intent there is hereby created a Special Legislative Investigating Committee on the State Bar to review and make recommendations regarding the scope, efficacy, and economy of the State Bar's activities. Such committee shall have the following composition, powers, and duties:

(1) The committee shall consist of six voting members, including the Chairman of the Senate Committee on Judiciary, two other Members of the Senate to be appointed by the Senate Committee on Rules, the Chairman of the Assembly Committee on Judiciary, and two other Members of the Assembly to be appointed by the Speaker of the Assembly, and three nonvoting members, to be appointed by the Board of Governors of the State Bar.

(2) The committee shall have and exercise all of the rights, duties and powers conferred upon investigating committees by the

provisions of the Joint Rules of the Senate and Assembly as they are adopted and amended from time to time, which provisions are incorporated herein and made applicable to this committee.

(b) The Legislative Analyst shall conduct a study of, and submit to the committee, no later than March 1, 1980, a report on, the State Bar with respect to its management practices, the effectiveness of its programs, and any other subject related to its operational efficiency.

(c) The committee shall review the report of the Legislative Analyst and shall consider and make recommendations to the Legislature, the Supreme Court, and the Board of Governors of the State Bar, regarding the following matters: the appropriate level of annual membership fees; whether the Board of Governors of the State Bar should have the authority to set the level of annual membership fees without legislative approval, subject to a referendum of the members of the State Bar; whether the types of activities to be financed by annual membership fees should be limited or expanded, and, if so, to which types of activities; what economies should the State Bar undertake with respect to those programs financed by annual membership fees; and other related matters deemed appropriate by the special committee.

(d) This section shall remain in effect only until January 1, 1982, and as of that date is repealed.

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## CHAPTER 1364

An act to amend Sections 46 and 193 of, and to add Section 100 to, the Embarcadero Municipal Improvement District Act (Chapter 81 of the Statutes of 1960, First Extraordinary Session), relating to municipal improvement districts.

[Became law without Governor's signature. Filed with  
Secretary of State October 1, 1980.]

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

**SECTION 1.** Section 46 of the Embarcadero Municipal Improvement District Act (Chapter 81 of the Statutes of 1960, First Extraordinary Session) is amended to read:

**Sec. 46.** The county treasurer, county controller, county counsel, district attorney of the county, and the county tax collector shall be ex officio officers of the district.

**SEC. 2.** Section 100 is added to the Embarcadero Municipal Improvement District Act (Chapter 81 of the Statutes of 1960, First Extraordinary Session), to read:

**Sec. 100.** (a) The district may establish a commission known as the Embarcadero Architectural Committee for the purpose of reviewing and approving construction within the district boundaries, for establishing reasonable regulations regarding animal

control, and enforcing the covenants, conditions, and restrictions that pertain to Improvement District No. 1 of the district. The members of this committee shall be subject to the same conflict of interest and financial disclosure requirements as a member of the board, and shall be appointed by the board for one-year terms commencing January 1 and ending December 31.

(b) The district may, by ordinance, provide compensation for members of the Embarcadero Architectural Committee, and reimburse expenses incurred on the business of such committee, but in no event may the total compensation of any member of such committee exceed ten dollars (\$10) for each meeting of the committee attended by such member, nor one hundred dollars (\$100) in any calendar year.

(c) All expenditures in excess of one hundred dollars (\$100) by the Embarcadero Architectural Committee shall be approved in advance by the district. The district shall cause an annual audit to be performed which completely summarizes the financial condition of such committee.

(d) The district shall assess the financial needs of the Embarcadero Architectural Committee annually, and establish a tentative budget for the following year's operations.

(e) The Embarcadero Architectural Committee may not take any action that conflicts with either a county or a district ordinance.

(f) The Embarcadero Architectural Committee may impose and collect fees for services rendered by the committee. Such fees shall be limited to the costs reasonably related to providing such services.

SEC. 3. Section 193 of the Embarcadero Municipal Improvement District Act (Chapter 81 of the Statutes of 1960, First Extraordinary Session) is amended to read:

Sec. 193. If the board appoints a depositary, it shall appoint a person who shall be known as finance officer, who shall serve at its pleasure. It shall fix the amount of his or her compensation. It shall fix the amount of and approve his or her bond which in no event may be less than fifty thousand dollars (\$50,000).

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 1365

An act to amend Sections 69994.6, 70026, 70054.4, 70054.7, 70059.8, 70139, 73674.1, 74352, 74671, and 74851 of, to add Sections 68090.5, 70015, 70053, 70054.3, 73347, 73442, 73527, 74519, 74650, and 74695 to, and to repeal Sections 70015, 70053, 70054.3, 73347, 73442, 73527, 74519, 74650, and 74695 of, the Government Code, relating to court fees.

[Became law without Governor's signature Filed with  
Secretary of State October 1, 1980.]

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

SECTION 1. Section 68090.5 is added to the Government Code, to read:

68090.5. In each court where statute requires payment of a reporter's filing fee, the fee shall be included within the applicable total filing fees established pursuant to Section 68090. The reporter's fee shall be in addition to the clerk's fee, law library fee, and judges' retirement fee, and the total of all such fees shall not exceed the limits fixed by Sections 26820.4, 26826, 26827, 72055, and 72056. The reporter's fee shall apply to the following filings in each civil action or proceeding:

(a) The first paper and papers transmitted from another court, as specified in Sections 26820.4 and 72055.

(b) The first paper on behalf of an adverse party, as specified in Sections 26826 and 72056.

(c) A petition or other paper in a probate, guardianship or conservatorship matter, as specified by Section 26827.

The fee shall not apply to adoptions or to appeals from an inferior court.

Except as otherwise specified by law, all fees collected under the provisions of this section shall be transmitted to the county treasurer in the same manner as filing fees collected by the clerk of the court. The reporter's filing fee shall be included with other fees when costs are awarded or taxed.

SEC. 2. Section 70015 of the Government Code is repealed.

SEC. 2.5. Section 69994.6 of the Government Code, as amended by Chapter 347 of the Statutes of 1980, is amended to read:

69994.6. This section shall be applicable to the superior court.

(1) A reporter's filing fee of ten dollars (\$10) shall be paid in actions and proceedings as specified in Section 68090.5.

(2) In addition to any fee otherwise required, in civil cases that last longer than one judicial day, 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 second and each successive day a reporter is required.

(3) Such fees shall not be subject to the provisions of Section 6103.

(4) The county clerk shall, on or before the first day of each calendar month, transmit to the county treasurer all money paid to him pursuant to this article during the preceding calendar month, up to the day immediately preceding the day on which he transmits such money, and such money shall be deposited in the general fund of such county.

SEC. 3. Section 70015 is added to the Government Code, to read:

70015. A reporter's filing fee of thirteen dollars (\$13) shall be paid in actions and proceedings as specified in Section 68090.5, in the Orange County Superior Court.

SEC. 4. Section 70026 of the Government Code is amended to read:

70026. In the Riverside County Superior Court, a reporter's filing fee of twenty-two dollars (\$22) shall be paid in actions and proceedings as specified in Section 68090.5, and no other fee for reporting service, except for transcripts, shall be charged any party. Such fee shall not be subject to the provisions of Section 6103, unless the fund to which said fee would accrue is the same fund as the source thereof.

SEC. 5. Section 70053 of the Government Code is repealed.

SEC. 6. Section 70053 is added to the Government Code, to read:

70053. A reporter's filing fee, as specified by statute, shall be paid in accordance with Section 68090.5, or whenever a fee is required by Section 26821.1, 26826.1, or 26827.3.

SEC. 7. Section 70054.3 of the Government Code is repealed.

SEC. 8. Section 70054.3 is added to the Government Code, to read:

70054.3. A reporter's filing fee of ten dollars (\$10) shall be paid in actions and proceedings as specified in Section 68090.5, in the Superior Courts of El Dorado and Nevada Counties.

SEC. 9. Section 70054.4 of the Government Code is amended to read:

70054.4. (a) In the Butte County Superior Court, a reporter's filing fee of eighteen dollars (\$18) shall be paid in actions and proceedings as specified in Section 68090.5.

(b) 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.

(c) 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.

SEC. 10. Section 70054.7 of the Government Code is amended to read:

70054.7. (a) A reporter's filing fee of ten dollars (\$10) shall be

paid in actions and proceedings as specified in Section 68090.5 in the San Benito County Superior Court.

(b) 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.

(c) 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.

SEC. 11. Section 70059.8 of the Government Code, as amended by Chapter 741 of the Statutes of 1980, 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) (1) A reporter's filing fee of sixteen dollars (\$16) shall be paid in actions and proceedings as specified in Section 68090.5 in the Solano County Superior Court.

(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.

SEC. 12. Section 70139 of the Government Code is amended to read:

70139. (a) A reporter's filing fee of twelve dollars (\$12) shall be paid in actions and proceedings as specified in Section 68090.5 in the Santa Cruz County Superior Court.

(b) 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.

(c) In addition to any fee otherwise required, in a civil case in which a 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.

SEC. 13. Section 73347 of the Government Code is repealed.

SEC. 14. Section 73347 is added to the Government Code, to read:  
73347. A reporter's filing fee of eighteen dollars (\$18) shall be paid in actions and proceedings as specified in Section 68090.5.

SEC. 15. Section 73442 of the Government Code is repealed.

SEC. 16. Section 73442 is added to the Government Code, to read:

73442. A reporter's filing fee of seven dollars and fifty cents (\$7.50) shall be paid in actions and proceedings as specified in Section 68090.5.

SEC. 17. Section 73527 of the Government Code is repealed.

SEC. 18. Section 73527 is added to the Government Code, to read:

73527. A reporter's filing fee of eleven dollars and fifty cents (\$11.50) shall be paid in actions and proceedings as specified in Section 68090.5.

SEC. 19. Section 73674.1 of the Government Code, as amended by Chapter 741 of the Statutes of 1980, 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) (1) A reporter's filing fee of sixteen dollars (\$16) shall be paid in actions and proceedings as specified in Section 68090.5.

(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.

SEC. 20. Section 74352 of the Government Code is amended to read:

74352. In any civil action or proceedings filed in the San Diego, El Cajon, North County, or South Bay Judicial Districts, where the principal amount of the prayer of the complaint, exclusive of interest, exemplary damages, attorneys fees and costs exceeds three hundred dollars (\$300), a reporter's filing fee of eleven dollars (\$11) shall be paid, as specified in Section 68090.5.

SEC. 21. Section 74519 of the Government Code is repealed.

SEC. 22. Section 74519 is added to the Government Code, to read:

74519. A reporter's filing fee of nine dollars and fifty cents (\$9.50) shall be paid in actions and proceedings as specified in Section 68090.5.

SEC. 23. Section 74650 of the Government Code is repealed.

SEC. 24. Section 74650 is added to the Government Code, to read:

74650. A reporter's filing fee of ten dollars (\$10) shall be paid in actions and proceedings as specified in Section 68090.5.

SEC. 25. Section 74671 of the Government Code, as added by Chapter 432 of the Statutes of 1980, is amended to read:

74671. In the Santa Clara County Judicial District in any civil action or proceeding where the principal amount of the prayer of the complaint, exclusive of interest, exemplary damages, attorneys' fees and costs, exceeds three hundred dollars (\$300), a reporter's filing fee of fourteen dollars (\$14) shall be paid as specified in Section 68090.5.

SEC. 26. Section 74695 of the Government Code is repealed.

SEC. 26.5. Section 74695 is added to the Government Code, to read:

74695. A reporter's filing fee of five dollars (\$5) shall be paid in actions and proceedings as specified in Section 68090.5.

SEC. 27. Section 74851 of the Government Code, as amended by Chapter 741 of the Statutes of 1980, 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) (1) A reporter's filing fee of sixteen dollars (\$16) shall be paid in actions and proceedings as specified in Section 68090.5.

(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.

SEC. 28. This act shall become operative only if Assembly Bill No. 2361 of the 1979-80 Regular Session is chaptered.

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CHAPTER 1366

An act to amend Sections 70127 and 73781.7 of, and to add Sections 70015.5 and 70135.5 to, the Government Code, to amend Section 4700 of the Penal Code, and to amend Section 541 of the Probate Code, relating to courts.

[Became law without Governor's signature Filed with Secretary of State October 1, 1980.]

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

SECTION 1. Section 70015.5. is added to the Government Code, to read:

70015.5. In addition to any fee otherwise required, in civil cases that last longer than five judicial days, a fee equal to the full 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 succeeding day a reporter is required. The court shall collect the fee at the close of trial.

SEC. 2. Section 70127 of the Government Code is amended to read:

70127. Each regular official reporter shall be paid an annual salary of fourteen thousand dollars (\$14,000). Adjustments in salary shall be made annually by the board of supervisors by an amount which is equivalent to the increase or decrease in the salary of related classes in the classified service of the county, and each pro tempore official reporter shall be paid per day the amounts prescribed in Article 9 (commencing with Section 69941) of Chapter 5 of Title 8 for the days he is actually on duty under the order of the court.

In addition to the compensation provided in this article, the board of supervisors of Humboldt County may provide by ordinance that each regular court reporter of the superior court shall be entitled to, and shall receive, the same vacation, sick leave and similar privileges and benefits as are now, or may be hereafter, provided to employees in Humboldt County classifications serving in the superior court, including the right to participate in any group life, health, dental, or other benefit program adopted by the board of supervisors.

SEC. 3. Section 70135.5 is added to the Government Code, to read:

70135.5. In addition to any fee otherwise required, in civil cases

that last longer than five judicial days, a fee equal to the full 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 succeeding day a reporter is required. The court shall collect the fee at the close of trial.

SEC. 4. Section 73781.7 of the Government Code is amended to read:

73781.7. In order to help defray the costs of reporting services, in addition to fees required by other laws for the filing of the first paper in a civil action, there shall be an additional charge of twelve dollars and fifty cents (\$12.50).

SEC. 5. Section 73781.7 of the Government Code is amended to read:

73781.7. In order to help defray the costs of reporting services, included within the fees required pursuant to Sections 72055 and 72056, there shall be a charge of twelve dollars and fifty cents (\$12.50).

SEC. 6. Section 4700 of the Penal Code is amended to read:

4700. Whenever a trial is had of any person under any of the provisions of Section 4530 of this code, whenever a hearing is had on the return of a writ of habeas corpus prosecuted by or on behalf of any prisoner in the state prison, whenever a prisoner in the state prison is tried or a court hearing is held for any crime committed therein, or whenever a prisoner transferred to a county correctional facility pursuant to Section 2910 or to a community correctional center pursuant to Section 6253 is prosecuted for a crime committed in such institution or for escape, and whenever a trial or hearing is had on the question of the insanity of any such prisoner, the county clerk of a county or the city finance officer of a city incurring any costs in connection with such matter must make out a statement of all the costs incurred by the county or city for the investigation, and the preparation of the trial, pretrial hearing, and actual trial of such case, or of the hearing on the return of such writ, and all guarding and keeping of such prisoner, while away from the prison, the transportation of the prisoner to and from the prison (when such transportation was performed by the county or city), the costs of appeal, and of the execution of the sentence of such prisoner, properly certified to by a judge of the superior court of such county. The statement must be sent to the Department of Corrections for its approval, and after such approval said department must cause the amount of such costs to be paid out of the money appropriated for the support of the Department of Corrections to the county treasurer of the county or the city finance officer of the city incurring such costs.

The cost of detention in a county or city correctional facility 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. 7. Section 541 of the Probate Code is amended to read:

541. Except as otherwise provided in this section, every person to whom letters testamentary or of administration are directed to issue (unless the testator has waived such requirement) shall, before receiving them, execute a bond to the State of California, with two or more persons or an authorized surety company as surety, to be approved by a judge of the superior court if the surety is not an authorized surety company, conditioned that the executor or administrator shall faithfully execute the duties of the trust according to law. In form the bond shall be joint and several. If the bond is to be given by individual persons, the penalty shall be not less than twice the value of the personal property and twice the value of the probable annual income from the real property belonging to the estate, which values shall be ascertained by the court or judge by examining on oath the party applying, and any other persons. If the bond is to be given by an authorized surety company, the court in its discretion may fix the amount of the bond at not less than the value of the personal property and the probable value of the annual rents, issues and profits of all of the property belonging to the estate.

Unless the will provides for a requirement of a bond, if a verified petition for letters testamentary or of administration alleges that all beneficiaries under the last will and testament of the decedent, or that all heirs at law of the decedent, have waived the filing of a bond, the court, on the hearing of the petition, if the petition so requests, shall direct that no bond be filed.

SEC. 8. It is the intention of the Legislature, if this bill and Assembly Bill 2361 are both chaptered and become effective January 1, 1981, and Assembly Bill 2361 amends Sections 72055 and 72056 of the Government Code, irrespective of the order of chaptering, that the amendments to Section 73781.1 of the Government Code proposed by Section 5 of this bill shall be given effect and that Section 4 shall not become operative. If Assembly Bill 2361 is not chaptered, then Section 5 shall not become operative and the amendments to Section 73781.1 proposed by Section 4 shall be given effect.

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## CHAPTER 1367

An act to amend Section 3309.5 of the Government Code, relating to public safety officers.

[Became law without Governor's signature Filed with  
Secretary of State October 1, 1980.]

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

SECTION 1. Section 3309.5 of the Government Code is amended to read:

3309.5. (a) It shall be unlawful for any public safety department to deny or refuse to any public safety officer the rights and

protections guaranteed to them by this chapter.

(b) The superior court shall have initial jurisdiction over any proceeding brought by any public safety officer against any public safety department for alleged violations of this section.

(c) In any case where the superior court finds that a public safety department has violated any of the provisions of this chapter, the court shall render appropriate injunctive or other extraordinary relief to remedy the violation and to prevent future violations of a like or similar nature, including, but not limited to, the granting of a temporary restraining order, preliminary, or permanent injunction prohibiting the public safety department from taking any punitive action against the public safety officer.

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## CHAPTER 1368

An act to add Section 23104.1 to, to repeal Sections 24752, 24755, and 24755.1 of, and to repeal Chapter 11 (commencing with Section 24850) of Division 9 of, the Business and Professions Code, relating to alcoholic beverages.

[Became law without Governor's signature. Filed with  
Secretary of State October 1, 1980]

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

SECTION 1. Section 23104.1 is added to the Business and Professions Code, to read:

23104.1. A retailer may return wine to the seller or to the successor of the seller and the seller or his successor may accept the return thereof, but the seller or his successor may not sell wine to the retailer for a period of one year after the date the returned wine is accepted or received unless any of the following exist:

(a) The wine is returned in exchange for the identical quantity, brand, and item of wine.

(b) It is returned pursuant to court order.

(c) The returned wine is a brand or item of wine which has been discontinued by the seller or his successor, and in such case the wine is exchanged for the identical quantity of a brand or item of similar quality.

(d) The wine delivered was other than that ordered by a retailer or was in a quantity other than that ordered. In such cases, the retailer may, within 15 days after such delivery, return such wine to the seller or his successor for exchange for the wine actually ordered, or may return the wine delivered in excess of the wine actually ordered. Returns under this subdivision may also be made after 15 days from the date of delivery upon written approval of the department.

(e) The wine has deteriorated in quality or the container thereof

has been damaged, or the label or container for the wine has been changed, and the wine is returned and exchanged for the identical quantity of the same brand and type of wine and size of container. For the purpose of this subdivision, "wines of the same type" means wines which are within the same class as defined in Sections 17005 to 17050, inclusive, by the Standards of Identity and Quality, Title 17, California Administrative Code, and which bear the same rate of state wine excise tax. Wines returned and exchanged pursuant to this subdivision shall have the same current posted price to retailers.

If wine or the container thereof is damaged or deteriorated, and the seller thereof has ceased to carry on a business licensed under this division and there is no successor to such business, such wine may be returned by a retailer to a winegrower or wholesaler who handles the same brand or item of wine, upon the same terms and conditions provided in this section for return of wine to a seller or his successor, after receiving approval from the department.

The approval of the department shall only be required for returns made after 15 days from the date of delivery under the provisions of subdivision (d) of this section, or returns made under the provisions of the immediately preceding paragraph of this section.

(f) As used in subdivisions (a), (c), and (e), the term "identical quantity" includes wine in metric measure containers and wine in United States standard measure containers which contain substantially the same amount of wine.

SEC. 2. Section 24752 of the Business and Professions Code is repealed.

SEC. 3. Section 24755 of the Business and Professions Code is repealed.

SEC. 4. Section 24755.1 of the Business and Professions Code is repealed.

SEC. 5. Chapter 11 (commencing with Section 24850) of Division 9 of the Business and Professions Code is repealed.

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## CHAPTER 1369

An act to add Section 41601.7 to the Education Code, relating to schools, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature Filed with  
Secretary of State October 1, 1980 ]

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

SECTION 1. Section 41601.7 is added to the Education Code, to read:

41601.7. A school district with an increase or decrease in the number of units of average daily attendance at a necessary small high

school from the second principal apportionment to the annual apportionment may request the county superintendent of schools to adjust the district's revenue limit or block grant by utilizing the units of average daily attendance for the annual apportionment for the necessary small high school in lieu of the units of average daily attendance for the second principal apportionment. To qualify for this adjustment, the following conditions shall be met:

(1) The increase or decrease in the units of average daily attendance between the two periods at the necessary small high school shall be equal to or greater than 15 percent and such increase or decrease shall be attributable to pupils attending a necessary small high school which provides a program of education with individualized instruction in a residential setting at an institution for pupils who have been placed in foster care for rehabilitation purposes pursuant to Chapter 2 (commencing with Section 200) of Part 1 of Division 2 of the Welfare and Institutions Code.

(2) The school district reimburses the county superintendent of schools for the administrative costs of making the adjustment prescribed by this section.

SEC. 2. This act shall be deemed operative for the entire 1979-80 fiscal year as though it had been enacted into law and become operative on July 1, 1979. The Superintendent of Public Instruction shall, for such purposes, have authority to take all necessary steps to effect the midfiscal year transition involved, including the authority to adjust allowance computations, apportionments, and disbursements ordered from Section A of the State School Fund.

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 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. 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 apply to the 1979-80 fiscal year, it is necessary that this act take effect immediately.

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## CHAPTER 1370

An act to amend Sections 13962, 13963, 13965, 13966, 13968, and 13973 of, and to add and repeal Sections 13961.1 and 13961.2 of, the Government Code, and to amend Section 4903 of the Labor Code, relating to victims of crimes, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature Filed with  
Secretary of State October 1, 1980.]

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

SECTION 1. Section 13961.1 is added to the Government Code, to read:

13961.1. (a) An emergency award shall be available for a victim of a crime of violence if, as a result of the crime, the victim incurs loss of his or her income or support.

(b) Emergency award application forms shall be provided by the State Board of Control upon request of the applicant. The board shall make available such application forms through all means at its disposal.

(c) The board may grant an emergency award based solely on the application of the victim. Disbursements of emergency awards funds shall be made within 30 business days of application. The board may refuse to grant an emergency award where it has reason to believe that the applicant will not qualify for an award for assistance under this article. The board may delegate authority to designated staff persons, who will use guidelines established by the board, to grant emergency awards.

(d) If the applicant does not complete the application for a grant or, if, upon final disposition of the victim's claim under this article, it is found that the victim is not eligible for assistance from the board, the victim shall reimburse the board for the emergency award pursuant to an agreed upon repayment schedule. If upon final disposition of the victim's application, the board grants assistance to the claimant, the amount of the emergency award shall be deducted from the final award of compensation granted to the victim; and, if the amount of the grant is less than the amount of the emergency award, the excess amount shall be repaid according to an agreed upon repayment schedule. Final disposition for the purposes of this section shall mean the final decision of the board with respect to the victim's application for assistance, before any appellate action is instituted.

(e) The amount of the emergency award shall be dependent upon the immediate needs of the victim, as evidenced by the victim's loss of income or support and losses incurred as a direct result of the crime before filing or reasonably anticipated during the first 90 days after the initial filing of an application. In no event shall the amount of the emergency award exceed one thousand dollars (\$1,000).

(f) The emergency award application shall require only the following:

(1) The name, address, and telephone number of the victim.

(2) A brief description of the nature and circumstances of the crime, including the date and location.

(3) The date the crime was reported to a law enforcement agency and the name and address of such agency.

(4) The name, address, and telephone number of the employer or self-employing entity, the loss of income or support to date and estimate of future loss.

(5) The name, address, and telephone number of medical providers and the cost of medical care incurred to date.

(6) A listing of creditors by name, address, and amount of debts, of whom applicant wishes the board to request forbearance of collections.

(7) A statement that in the event the victim is denied assistance under this article or the final award is less than the emergency award, the applicant will be required to repay the excess amount.

(8) The applicant's signature and a statement that the victim was a resident of the state on the date of the crime and that the information is supplied under penalty of perjury, violation of which is punishable by six months in the county jail.

SEC. 1.5. Section 13961.2 is added to the Government Code, to read:

13961.2. A sum not to exceed 15 percent of the amount appropriated annually to pay victims of crimes of violence may be withdrawn from the Indemnity Fund, to be used as a revolving fund by the State Board of Control for the payment of emergency awards made pursuant to Section 13961.1.

SEC. 2. 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. The verification process shall include sending supplemental forms to all hospitals, physicians, law enforcement officials and other interested parties involved, verifying the treatment of the victim, circumstances of the crime, amounts paid or received by or for the victim and other pertinent information as may be deemed necessary by the board. Verification forms shall be provided by the board and shall be returned to the board within 10 business days. The board shall include on the verification forms reference to this section with respect to the prompt return of the verification forms. 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.

(d) Hearings shall be held in various locations with the frequency necessary to provide for the speedy adjudication of the applications. If necessary, the board shall delegate the hearing of applications to hearing examiners.

SEC. 3. Section 13963 of the Government Code is amended to read:

13963. (a) At the hearing, the board shall:

(1) Instruct its staff, prior to the start of the proceedings, to brief those claimants present on the rules, regulations and any other procedures and guidelines used by the board at such hearings.

(2) Review the application for assistance and the report prepared thereon and any other evidence obtained as a result of the investigation.

(3) Receive such other evidence as the board finds necessary or desirable properly to evaluate the application.

(b) If the victim chooses not to appear at the hearing, the board may act solely upon the application for assistance, the staff's report, and such other evidence as appears in the record.

SEC. 4. Section 13965 of the Government Code is amended to read:

13965. (a) If the application for assistance is approved, the board shall determine what type of state assistance will best aid the victim. The board may take any or all of the following actions:

(1) Authorize a cash payment to or on behalf of the victim equal to the pecuniary loss attributable to medical or medical related expenses directly resulting from the injury but not to exceed ten thousand dollars (\$10,000);

(2) Authorize a cash payment to the victim equal to the pecuniary loss resulting from loss of wages or support directly resulting from the injury, but not to exceed ten thousand dollars (\$10,000);

(3) Authorize cash payments not to exceed three thousand dollars (\$3,000) to or on behalf of the victim for job retraining or similar employment-oriented rehabilitative services.

(b) Assistance granted pursuant to this article shall not disqualify an otherwise eligible victim from participation in any other public assistance program.

Cash payments made pursuant to this article may be on a one time or periodic basis. If periodic, the board may increase, reduce, or terminate the amount of assistance according to need, subject to the maximum limits provided in paragraphs (1), (2), and (3) of subdivision (a).

(c) The board may also authorize payment of attorney's fees representing the reasonable value of legal services rendered to the applicant, but not to exceed 10 percent of the amount of the award, or five hundred dollars (\$500), whichever is less.

No attorney shall charge, demand, receive, or collect any amount for services rendered in connection with any proceedings under this

article except as awarded under this section.

(d) The maximum cash payments authorized in paragraphs (1) and (2) of subdivision (a) shall be increased to twenty thousand dollars (\$20,000) and the attorney's fees authorized in subdivision (c) of this section shall be increased to five thousand dollars (\$5,000) and one thousand dollars (\$1,000), respectively, if federal funds for such increases are available.

SEC. 4.1. Section 13966 of the Government Code is amended to read:

13966. (a) The State of California shall be subrogated to the rights of the victim to whom cash payments are granted to the extent of the cash payments granted, less the amount of any fine imposed by the court on the perpetrator of the crime. Such subrogation rights shall be against the perpetrator of the crime or any person liable for the pecuniary loss.

(b) The state also shall be entitled to a lien on the judgment, award, or settlement, in the amount of such case payments on any recovery made by or on behalf of the victim. The state may recover this amount in a separate action, or may intervene in an action brought by or on behalf of the victim. If a claim is filed within one year of the date of recovery, the state shall pay 25 percent of the amount of the recovery which is subject to a lien on the judgment, award, or settlement, to the county probation department or the victim responsible for recovery thereof from the perpetrator of the crime, provided the total amount of the lien is recovered. The remaining 75 percent of the amount and any amount not claimed within one year pursuant to this section, shall be deposited in the Indemnity Fund.

(c) The board may compromise or settle and release any lien pursuant to this article if it is found that such action is in the best interest of the state or the collection would cause undue hardship upon the victim.

(d) In the event that the victim, his guardian, personal representative, estate, or survivors, or any of them, bring an action for damages against the person or persons liable for the injury or death giving rise to an award by the board under this article, notice of institution of legal proceedings, notice of settlement and all other notices required to be given to the judgment debtor pursuant to Chapters 1 (commencing with Section 681) and 2 (commencing with Section 714) of Title 9 of Part 2 of the Code of Civil Procedure, shall be given to the board in Sacramento except in cases where the board specifies that notice shall be given to the Attorney General. All such notices shall be given by the attorney employed to bring the action for damages or by the victim, his guardian, personal representative, estate, or survivors, if no attorney is employed.

SEC. 4.3. Section 13968 of the Government Code is amended to read:

13968. (a) The State Board of Control is hereby authorized to make all needful rules and regulations consistent with the law for the

purposes of carrying into effect the provisions of this article.

(b) It shall be the duty of every hospital licensed under the laws of this state to display prominently in its emergency room posters giving notification of the existence and general provisions of this chapter. The board shall set standards for the location of such display and shall provide posters, application forms and general information regarding the provisions of this chapter to each hospital and physician licensed to practice in the State of California.

(c) It shall be the duty of every local law enforcement agency to inform victims of violent crimes of the provisions of this chapter and to provide application forms to victims who desire to seek assistance pursuant to this article. The board shall provide application forms and all other documents which local law enforcement agencies may require to comply with this section. The board shall set standards to be followed by local law enforcement agencies for this purpose and may require them to file with the board a description of the procedures adopted by each agency to comply.

(d) Notwithstanding any other provision of law, every law enforcement agency in the state shall provide to the board, upon request, a complete copy of the report regarding the incident and any supplemental reports involving the crime, public offense, or incident giving rise to a claim filed pursuant to this article.

(e) The law enforcement agency supplying the information may, at its discretion, withhold the names of witnesses or informants from the board, if the release of such names would be detrimental to the parties or to an investigation currently in progress.

(f) Notwithstanding any other provision of law, every state agency, department, division, board, or commission, upon receipt of a copy of a release signed in accordance with the Information Practices Act of 1977 by the applicant or other authorized representative, shall provide to the board the information necessary to complete the verification of an application filed pursuant to this article.

SEC. 5. Section 13973 of the Government Code is amended to read:

13973. Upon presentation of any such claim, the Board of Control shall fix a time and place for the hearing of the claim, and shall mail notices thereof to interested persons or agencies. At the hearing, the board shall receive recommendations from public safety or law enforcement agencies, and evidence showing:

(a) The nature of the crime committed by the apprehended criminal or prevented by the action of the private citizen, or the nature of the action of the private citizen in rescuing a person in immediate danger of injury or death as a result of fire, drowning, or other catastrophe, and the circumstances involved;

(b) That the actions of the private citizen substantially and materially contributed to the apprehension of a criminal, the prevention of a crime, or the rescuing of a person in immediate danger of injury or death as a result of fire, drowning, or other

catastrophe;

(c) That as a direct consequence, the private citizen incurred personal injury or damage to property or died;

(d) The extent of such injury or damage for which the claimant is not compensated from any other source;

(e) Such other evidence as the board may require.

If the board determines, on the basis of a preponderance of such evidence, that the state should indemnify the claimant for the injury, death, or damage sustained, it shall approve the claim for payment. In no event shall a claim be approved by the board under this article in excess of ten thousand dollars (\$10,000).

In addition to any award made under this article, the board may award, as attorney's fees, an amount representing the reasonable value of legal services rendered a claimant, but in no event to exceed 10 percent of the amount of the award. No attorney shall charge, demand, receive, or collect for services rendered in connection with any proceedings under this article any amount other than that awarded as attorney's fees under this section. Claims approved under this article shall be paid from a separate appropriation made to the State Board of Control in the Budget Act and as such claims are approved by the board.

SEC. 5.1. Section 4903 of the Labor Code is amended to read:

4903. The appeals board may determine, and allow as liens against any sum to be paid as compensation, any amount determined as hereinafter set forth in subdivisions (a) through (h) of this section. If more than one such lien be allowed, the appeals board may determine the priorities, if any, between the liens allowed. The liens which may be allowed hereunder are as follows:

(a) A reasonable attorney's fee for legal services pertaining to any claim for compensation either before the appeals board or before any of the appellate courts, and the reasonable disbursements in connection therewith.

(b) The reasonable expense incurred by or on behalf of the injured employee, as provided by Article 2 of Chapter 2 of Part 2 of this division.

(c) The reasonable value of the living expenses of an injured employee or of his dependents, subsequent to the injury.

(d) The reasonable burial expenses of the deceased employee, not to exceed the amount provided for by Section 4701.

(e) The reasonable living expenses of the wife or minor children of the injured employee, or both, subsequent to the date of the injury, where such employee has deserted or is neglecting his family. Such expenses shall be allowed in such proportion as the appeals board deems proper, under application of the wife or guardian of the minor children.

(f) The amount of unemployment compensation disability benefits which have been paid under or pursuant to the Unemployment Insurance Code in those cases where, pending a determination under Division 4 of this code, there was uncertainty

whether such benefits were payable under the Unemployment Insurance Code or payable hereunder; provided, however, that any lien under this subdivision shall be allowed and paid as provided in Section 4904.

(g) The amount of unemployment compensation benefits and extended duration benefits paid to the injured employee for the same day or days for which he receives, or is entitled to receive, temporary total disability indemnity payments under this division; provided, however, that any lien under this subdivision shall be allowed and paid as provided in Section 4904.

(h) The amount of indemnification granted pursuant to Article 1 (commencing with Section 13959) of Chapter 5 of Part 4 of Division 3 of Title 2 of the Government Code.

SEC. 6. Sections 1 and 1.5 of this act shall remain in effect only until December 31, 1981, and shall be repealed as of such date, unless a later enacted statute, which is chaptered before January 1, 1982, deletes or extends such date.

SEC. 6.5. 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:

The Legislature finds that the membership of the California Commission on Crime Control and Violence Prevention must be increased to appropriately reflect the general public, including women and ethnic minorities, and that there exists a compelling need for the express inclusion of women and women who are ethnic minorities as commission members to enable the commission to successfully carry out its mandate, and therefore it is necessary that this act become effective immediately.

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 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.

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## CHAPTER 1371

An act to add Section 30610.6 to the Public Resources Code, relating to the California Coastal Act, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature Filed with  
Secretary of State October 1, 1980.]

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

SECTION 1. Section 30610.6 is added to the Public Resources Code, to read:

30610.6. (a) The Legislature hereby finds and declares that it is in the public interest to provide by statute for the resolution of the lengthy and bitter dispute involving development of existing legal lots within the unincorporated area of Sonoma County, commonly known as the Sea Ranch. The reasons for the need to finally resolve this dispute include:

(1) Acknowledgment by the responsible regulatory agencies that development of existing lots at Sea Ranch can proceed consistent with the provisions of this division and other applicable laws provided certain conditions have been met. Development has been prevented at considerable costs to property owners because these conditions have not been met.

(2) That it has been, and continues to be, costly to Sea Ranch property owners and the public because of, among other reasons, extensive and protracted litigation, continuing administrative proceedings, and escalating construction costs.

(3) The need to provide additional public access to and along portions of the coast at the Sea Ranch in order to meet the requirements of this division. The continuation of this dispute prevents the public from enjoying the use of such access opportunities.

(4) The commission is unable to refund 118 "environmental deposits" to property owners because coastal development permit conditions have not been met.

(5) It appears likely that this lengthy dispute will continue unless the Legislature provides a solution, and the failure to resolve the dispute will be unfair to property owners and the public.

(b) The Legislature further finds and declares that because of the unique circumstances of this situation, the provisions of this section constitute the most expeditious and equitable mechanism to ensure a timely solution that is in the best interest of property owners and that is consistent with the requirements of this division.

(c) If the Sea Ranch Association and Oceanic California, Inc. desire to take advantage of the terms of this section, they shall, not sooner than April 1, 1981, and not later than July 1, 1981, deposit into escrow deeds and other necessary documents that have been determined by the State Coastal Conservancy prior to their deposit in escrow to be legally sufficient to convey to the State Coastal Conservancy enforceable and nonexclusive public use easements free and clear of liens and encumbrances for the easements specifically described in this subdivision. Upon deposit of five hundred thousand dollars (\$500,000) into the same escrow account

by the State Coastal Conservancy, but in no event later than 30 days after such deeds and other necessary documents have been deposited in the escrow account, the escrow agent shall transmit the five hundred thousand dollars (\$500,000), less the escrow, title, and administrative costs of the State Coastal Conservancy, in an amount not to exceed twenty thousand dollars (\$20,000), to the Sea Ranch Association and shall convey such deeds and other necessary documents to the State Coastal Conservancy. The conservancy shall subsequently convey such deeds and other necessary documents to an appropriate public agency that is authorized and agrees to accept such easements. The deeds specified in this subdivision shall be for the following easements:

(1) In Unit 34A, a 30-foot wide vehicle and pedestrian access easement from a point on State Highway 1, 50 feet north of mile post marker 56.75, a day parking area for 10 vehicles, a 15-foot wide pedestrian accessway from the parking area continuing west to the bluff-top trail, and a 15-foot wide bluff-top pedestrian easement beginning at the southern boundary of Gualala Point County Park and continuing for approximately three miles in a southerly direction to the sandy beach at the northern end of Unit 28 just north of Walk-on Beach together with a 15-foot wide pedestrian easement to provide a connection to Walk-on Beach to the south.

(2) In Unit 24, a day parking area west of State Highway 1, just south of Whalebone Reach, for six vehicles, and a 15-foot wide pedestrian accessway over Sea Ranch Association common areas crossing Pacific Reach and continuing westerly to the southern portion of Shell Beach with a 15-foot wide pedestrian easement to connect with the northern portion of Shell Beach.

(3) In Unit 36, a 30-foot wide vehicle and pedestrian accessway from State Highway 1, mile post marker 53.96, a day parking area for 10 vehicles, and a 15-foot wide pedestrian accessway from the parking area to the beach at the intersection of Units 21 and 36.

(4) In Unit 17, adjacent to the intersection of Navigator's Reach and State Highway 1, 75 feet north of mile post marker 52.21, enough land to provide day parking for four vehicles and a 15-foot wide pedestrian accessway from the parking area to Pebble Beach.

(5) In Unit 8, a 30-foot wide vehicle and pedestrian accessway from State Highway 1, mile post marker 50.85, a day parking area for 10 vehicles and a 15-foot wide pedestrian accessway from the parking area to Black Point Beach.

(6) With respect to each of the beaches to which access will be provided by the easements specified in this subdivision, a easement for public use of the area between the line of mean high tide and either the toe of the adjacent bluff or the first line of vegetation, whichever is nearer to the water.

(7) Scenic view easements for those areas specified by the executive director, as provided in subdivision (d), and which easements allow for the removal of trees in order to restore and preserve scenic views from State Highway 1.

(d) The executive director of the commission shall, within 30 days after the effective date of this section, specifically identify the areas along State Highway 1 for which the scenic view easements provided for in paragraph (7) of subdivision (c) will be required. In identifying the areas for which easements for the restoration and preservation of public scenic views will be required, the executive director shall take into account the effect of tree removal so as to avoid causing erosion problems. It is the intent of the Legislature that only those areas be identified where scenic views to or along the coast are unique or particularly beautiful or spectacular and which thereby take on public importance. The restoration and preservation of the scenic view areas specified pursuant to this subdivision shall be at public expense.

(e) Within 30 days after the effective date of this section, the executive director of the commission shall specify design criteria for the height, site, and bulk of any development visible from the scenic view areas provided for in subdivision (d). Such criteria shall be enforced by the County of Sonoma if the deeds and other necessary documents specified in subdivision (c) have been conveyed to the State Coastal Conservancy. Such criteria shall be reasonable so as to enable affected property owners to build single-family residences of substantially similar overall size to those which property owners who are not affected by these criteria may build or have already built under the Sea Ranch Association's building design criteria. The purpose of such criteria is to ensure that development will not substantially detract from the specified scenic view areas.

(f) On and after the date on which the deeds and other necessary documents deposited in escrow pursuant to subdivision (c) have been conveyed to the State Coastal Conservancy, no additional public access requirements shall be imposed at the Sea Ranch pursuant to this division by any regional commission, the commission, any other state agency, or any local government. The Legislature hereby finds and declares that the provision of the access facilities specified in this subdivision shall be deemed adequate to meet the requirements of this division.

(g) The realignment of internal roads within the Sea Ranch shall not be required by any state or local agency acting pursuant to the provisions of this division; provided, however, that appropriate easements may be required by the County of Sonoma to provide for the expansion of State Highway 1 for the development of turnout and left-turn lanes and for the location of a bicycle path, when the funds are made available for such purposes. The Legislature finds and declares that the provisions of this subdivision are adequate to meet the requirements of this division to ensure that new development at the Sea Ranch will not overburden the capacity of State Highway 1 to the detriment of recreational users.

(h) No coastal development permit shall be required pursuant to this division for the development of supplemental water supply facilities determined by the State Water Resources Control Board to

be necessary to meet the needs of legally permitted development within the Sea Ranch. The commission, through its executive director, shall participate in the proceedings before the State Water Resources Control Board relating to such facilities and may recommend terms and conditions that the commission deems necessary to protect against adverse impacts on coastal zone resources. The State Water Resources Control Board shall condition any permit or other authorization for the development of such facilities so as to carry out the commission's recommendation, unless the State Water Resources Control Board determines that any such recommended terms or conditions are unreasonable. This subdivision shall become operative if the deeds and other necessary documents specified in subdivision (c) have been conveyed to the State Coastal Conservancy.

(i) Within 90 days after the effective date of this section, the commission, through its executive director, shall specify criteria for septic tank construction, operation, and monitoring within the Sea Ranch to ensure protection of coastal zone resources consistent with the policies of this division. The North Coast Regional Water Quality Control Board shall review such criteria and adopt it, unless it finds such criteria or a portion thereof is unreasonable. The regional board shall be responsible for the enforcement of any such adopted criteria if the deeds and other necessary documents specified in subdivision (c) have been conveyed to the State Coastal Conservancy.

(j) Within 60 days after the date on which the deeds and other necessary documents deposited in escrow pursuant to subdivision (c) have been conveyed to the State Coastal Conservancy, the commission shall refund every Sea Ranch "environmental deposit" together with any interest earned on such deposit to the person, or his or her designee, who paid such deposit.

(k) Notwithstanding any other provision of law, on and after the date on which the deeds and other necessary documents deposited in escrow pursuant to subdivision (c) have been conveyed to the State Coastal Conservancy, a coastal development permit shall not be required pursuant to this division for the construction of any single-family residence dwelling on any vacant, legal lot existing at the Sea Ranch on the effective date of this section. With respect to any other development for which a coastal development permit is required within legally existing lots at the Sea Ranch, no conditions may be imposed pursuant to this division that impose additional public access requirements or that relate to supplemental water supply facilities, septic tank systems, or internal road realignment.

(l) Notwithstanding any other provision of law, if on July 1, 1981, deeds and other necessary documents that are legally sufficient to convey the easements specified in subdivision (c) have not been deposited in an escrow account, the provisions of this section shall no longer be operative and shall have no force or effect and thereafter all the provisions of this division in effect prior to enactment of this section shall again be applicable to any development within the Sea

Ranch.

(m) The Legislature hereby finds and declares that the provisions for the settlement of this dispute, especially with respect to public access, as set forth in this section provide an alternative to and are equivalent to the provisions set forth in Section 30610.3. The Legislature further finds that the provisions of this section are not in lieu of the permit and planning requirements of this division but rather provide for an alternative mechanism to Section 30610.3 for the resolution of outstanding issues at the Sea Ranch.

SEC. 2. The sum of five hundred thousand dollars (\$500,000) appropriated from the Energy and Resources Fund by category (f) of Item 532 of the Budget Act of 1980 to the Department of Parks and Recreation for Salt Point State Park—land acquisition is hereby reappropriated to the State Coastal Conservancy for the purpose of carrying out the provisions of Section 30610.6 of the Public Resources Code.

(b) It is the intent of the Legislature that the dispute between the Sea Ranch Association and the California Coastal Commission be resolved and settled as soon as possible. In order to effectuate an expeditious resolution of this dispute that is in the best interest of the public and the lot owners at the Sea Ranch, the appropriation made by this section shall be available for encumbrance until July 1, 1981, and, if by that date deeds and other necessary documents that are legally sufficient to convey the easements specified in subdivision (c) of Section 30610.6 of the Public Resources Code have not been deposited in escrow as provided for in this act, the money appropriated by this act shall revert to the Energy and Resources Fund.

SEC. 3. The Legislature hereby declares that the enactment of this act shall not be construed as establishing any precedent for any future action affecting the coastal zone under the California Coastal Act of 1976.

SEC. 4. Local governments shall be reimbursed pursuant to Sections 30340.5 and 30340.6 of the Public Resources Code for any costs that may be incurred by them in carrying out any program or performing any service required to be carried on or performed by them by 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:

In order to provide a procedure to settle the question of public access at The Sea Ranch as soon as possible, it is necessary that this act take effect immediately.

## CHAPTER 1372

An act to amend Sections 117.14, 491.030, 690.31, and 722 of the Code of Civil Procedure, to amend Sections 26721, 26725, 26728, 26730, 26733, 26734, 26735, 26736, 26738, 26742, 26743, 26744, 26822.3, 26823, 26824, 26826, 26827, 26828, 26829, 26830, 26833, 26834, 26836, 26837, 26838, 26839, 26853, 26854, 71664.5, 72054, 72055, 72056, 72059, and 72060 of, to add Sections 26720.5, 26820.4, 26820.6, 26820.8, 26827.4, 68090, and 72056.5 to, to repeal Sections 26821.2, 26822, 26822.2, 26826.2, 26827.2, 71665, 71665.5, 71666, 71667, 71669, 71674, 71677, 71679, 72057, 72058, 72062, 72065, 72066, and 72068 of, to add and repeal Sections 26721.5, 26725.5, 26728.5, 26730.5, 26733.5, 26734.5, 26735.5, 26736.5, 26738.5, 26742.5, 26743.5, and 26744.5 of, to repeal and add Section 26821 of, the Government Code, and to amend Section 10554 of the Health and Safety Code, relating to fees.

[Became law without Governor's signature Filed with  
Secretary of State October 1, 1980 ]

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

SECTION 1. Section 117.14 of the Code of Civil Procedure is amended to read:

117.14. A fee of two dollars (\$2) shall be charged and collected for the filing of the claim under oath for the commencement of any action; for each defendant to whom a copy of the claim is mailed by the clerk a fee of three dollars (\$3) shall be charged and collected. Fees as provided in Sections 26828 and 26834 of the Government Code shall be charged and collected by the clerk for the issuance of a writ of execution or an abstract of judgment. Except as otherwise provided for in this chapter, no other fee or charge shall be collected by any officer for any service rendered under this chapter, or for the taking of affidavits for use in connection with any action commenced under this chapter. All fees collected hereunder shall be deposited with the treasurer of the city and county or county under whose jurisdiction any such court shall exist.

SEC. 2. Section 491.030 of the Code of Civil Procedure is amended to read:

491.030. (a) When the third person does not reside or have a place of business in the county where the action is pending, an order for his examination, authorized by Section 491.010, may be made by any court of similar jurisdiction of the county where the third person resides or has a place of business or, if no court of similar jurisdiction is in the county, by a court of higher jurisdiction therein, upon filing with the clerk of the court a certified copy of the complaint in the pending action and an affidavit showing that the third person resides or has a place of business in the county where that court is located and does not reside or have a place of business in the county where the action is pending.

(b) The fee for filing pursuant to this section shall be twelve dollars (\$12). No law library fee shall be charged.

SEC. 3. Section 690.31 of the Code of Civil Procedure is amended to read:

690.31. (a) (1) A dwelling house in which the debtor or the family of the debtor actually resides shall be exempt from execution, to the same extent and in the same amount, except as otherwise provided in this section, as the debtor or the spouse of the debtor would be entitled to select as a homestead pursuant to Title 5 (commencing with Section 1237) of Part 4 of Division 2 of the Civil Code. For the purpose of this section, "dwelling house" means the dwelling house together with the outbuildings and the land on which the same are situated.

(2) A mobilehome as defined in Section 18008 of the Health and Safety Code in which the debtor or the family of the debtor actually resides, together with the outbuildings and the land on which the same are situated, shall be exempt from execution, to the same extent and in the same amount, as is provided for a dwelling house by this section. For the purposes of this section, "dwelling house" includes such a mobilehome.

(b) The exemption provided in subdivision (a) does not apply:

(1) Whenever the debtor or the spouse of the debtor has an existing declared homestead on any property in this state other than property which is the subject of a proceeding under subdivision (c) of this section. The existence of a homestead declared by the debtor or the debtor's spouse under Section 1300 of the Civil Code shall not affect the right of the other spouse to an exemption under this section.

(2) Whenever a judgment or abstract thereof or any other obligation which by statute is given the force and effect of a judgment lien has been recorded prior to either:

(i) The acquisition of the property by the debtor or the spouse of the debtor; or

(ii) The commencement of residence by the debtor or the spouse of the debtor, whichever last occurs.

(3) Whenever the execution or forced sale is in satisfaction of judgments obtained:

(i) On debts secured by mechanics, contractors, subcontractors, artisans, architects, builders, laborers of every class, or materialmen's or vendors' liens upon the dwelling house or premises;

(ii) On debts secured by encumbrances on the dwelling house or premises executed and acknowledged by husband and wife, by a claimant of a married person's separate homestead, or by an unmarried claimant; or

(iii) On debts secured by encumbrances on the dwelling house or premises, executed and recorded prior to or in connection with the acquisition of the property by the debtor or the spouse of the debtor.

(c) Whenever a judgment creditor seeks to enforce a judgment against a dwelling house, whether or not the judgment was rendered

in another county, the judgment creditor shall apply to the proper court in the county in which the dwelling house is located for the issuance of a writ of execution. The proper court shall be determined in the same manner as provided in Section 392. The application shall be verified and describe the dwelling house and state that either or both of the following facts exist:

(1) The dwelling house is not exempt, the reasons therefor, and (i) that a reasonable search of the records of the office of the county recorder has not resulted in the finding of a declared homestead of the debtor or the spouse of the debtor on the subject dwelling house, and further, that a reasonable search of the records of the county tax assessor indicates that there is no current homeowner's exemption claimed by either the debtor or the spouse of the debtor on the subject dwelling house, or (ii) that the records of the county tax assessor indicate that there is a current homeowner's exemption claimed by either the debtor or the spouse of the debtor on the subject dwelling house but the judgment creditor believes for reasons which shall be stated in the application that the debtor or the spouse of the debtor is not entitled to the exemption provided in this section.

(2) The current value of the dwelling house, over and above all liens and encumbrances thereon, exceeds the amount of the allowable exemption.

If an application alleges facts solely pursuant to paragraph (2) or the court determines that a writ may issue only under the circumstances described in paragraph (2), the court shall determine whether the current value of the dwelling house, over and above all liens and encumbrances thereon, exceeds the amount of the allowable exemption in the manner provided by Title 5 (commencing with Section 1237) of Part 4 of Division 2 of the Civil Code.

At the time the application is filed, if the judgment was rendered in another county, there shall be paid to the clerk or judge, as a filing fee, twelve dollars (\$12). No law library fee shall be charged.

Whenever a judgment creditor seeks to enforce a judgment pursuant to this section and the judgment was rendered in another county, the judgment creditor shall file with the clerk or judge of the proper court in the county in which the dwelling house is located an abstract of judgment in the form prescribed in Section 674.

(d) Upon receipt of a completed application of a judgment creditor, the court shall set a time and place for hearing and order the debtor to show cause why a writ of execution should not issue. Prior to the hearing, a copy of the order to show cause, a copy of the application filed by the judgment creditor and a copy of the following notice, in at least 10-point bold type, shall be served as prescribed in subdivision (l):

**“IMPORTANT LEGAL NOTICE TO HOMEOWNER AND  
RESIDENT**

1. Your house is in danger of being sold to satisfy a judgment obtained in court. You may be able to protect the house and real property described in the accompanying application from execution and forced sale if you or your family now actually reside on the property and presently do not have a declared homestead legally recorded with the county recorder on any other property in the State of California. **YOU OR YOUR SPOUSE MUST COME TO THE HEARING TO SHOW THESE FACTS.**

2. If you or your spouse want to contest the forced sale of this property, you or your spouse must appear at

\_\_\_\_\_ on \_\_\_\_\_

(Location set forth in O.S.C)

(Date and time)

and be prepared to answer questions concerning the statements made in the attached application. **THE ONLY PURPOSE OF THE HEARING WILL BE TO DETERMINE WHETHER THE PROPERTY CAN BE SOLD, NOT WHETHER YOU OWE THE MONEY.**

3. **FOR YOUR OWN PROTECTION, YOU SHOULD PROMPTLY SEEK THE ADVICE OF AN ATTORNEY IN THIS MATTER. IF YOU ARE A TENANT AND DO NOT CLAIM TO BE THE OWNER OR BUYER OF THIS PROPERTY, THIS NOTICE DOES NOT AFFECT YOU. PLEASE GIVE IT TO YOUR LANDLORD.”**

(e) The burden of proof at the hearing shall be determined in the following manner:

(1) Where the application of the judgment creditor states a claim of nonexempt status, the debtor or the spouse of the debtor shall have the burden of proving his or her entitlement to the exemption; and

(2) Where the application of the judgment creditor asserts that the current value of the dwelling, over and above all liens and encumbrances thereon, exceeds the amount of the allowable exemption, the judgment creditor shall have the burden of proof on that issue.

(f) Upon a determination by the court that the dwelling house is not exempt or that, although exempt, the judgment creditor is entitled to levy against any excess, it shall make an order directing the issuance of a writ of execution. The order shall state whether or not the dwelling house is exempt and, if not exempt, state that the judgment creditor is entitled only to execution against the excess over the exempt amount. It shall also specify the amount of the exemption. A copy of the order shall be transmitted by the clerk of the court to the clerk of the court in which the judgment was rendered.

The writ of execution shall specify the amounts for distribution under the levy, including names and addresses of each person or

entity having an encumbrance against the dwelling and the name and address of any exempt debtor and the exempt amount.

(g) Any such writ of execution issued upon a hearing at which the debtor, the spouse of the debtor, or his or her attorney did not appear shall be served in the manner prescribed in subdivision (l) and be accompanied by the following notice in at least 10-point bold type:

**“IMPORTANT LEGAL NOTICE TO HOMEOWNER AND RESIDENT**

1. You were recently served with a court order requiring your presence at a hearing to determine why the court should not issue a writ of execution for the forced sale of your home. **YOU AND YOUR SPOUSE FAILED TO APPEAR AT THE HEARING AND THE COURT HAS ORDERED THAT YOUR HOME BE SOLD TO SATISFY A JUDGMENT AGAINST YOU.**

2. Your absence at the hearing has contributed to the issuance of the accompanying writ of execution. If the absence of you or your attorney at the hearing was legally excusable and you believe in good faith that your home may be entitled to an exemption from execution, you should complete the form below and date, sign, and return the form below no later than \_\_\_\_\_. (Insert date no later than five days prior to date of sale.)

3. **FOR YOUR OWN PROTECTION, YOU SHOULD IMMEDIATELY SEEK THE ADVICE OF AN ATTORNEY. IF YOU ARE A TENANT AND DO NOT CLAIM TO BE THE OWNER OR BUYER OF THIS PROPERTY, THIS NOTICE DOES NOT AFFECT YOU. PLEASE GIVE IT TO YOUR LANDLORD.**

..... (Cut Out and Return This Form to) .....

\_\_\_\_\_  
(Name and title of levying officer)

\_\_\_\_\_  
(Street address and city)

\_\_\_\_\_  
(Area code and telephone number of levying officer)”

I declare that my absence from the previous hearing on whether or not this property should be sold was legally excusable. I, or my spouse, currently reside in this property and I wish a further hearing so that I may assert my exemption rights under Code of Civil Procedure Section 690.31 and contest the sale of my home. I understand that the clerk of the court will notify me of the date and place for this hearing if I return this form immediately and that I must attend this hearing.

I declare under penalty of perjury that the foregoing is true and correct.

Executed on \_\_\_\_\_ at \_\_\_\_\_, California  
 (Date) (City or county)

”

\_\_\_\_\_  
 (Signature of debtor or debtor's spouse)

(h) If the debtor or spouse of the debtor declares that his or her absence or the absence of his or her attorney at the hearing was due to mistake, inadvertence, surprise or excusable neglect and declares that the subject dwelling house may be entitled to an exempt status, the levying officer shall, upon receipt of the declarations of the debtor five days prior to the scheduled sale date, postpone the sale pending further orders of the court and transmit the notice forthwith to the court. Upon receipt of the notice, the clerk shall set a hearing to determine whether the writ of execution should be recalled, and shall give at least 10 days' notice to the parties.

(i) Subsequent applications by a judgment creditor within 12 months of a denial of a writ of execution shall be supported by a statement under oath alleging that there is a material change of circumstances affecting the exemption, and setting forth facts supporting such claimed material change of circumstances.

(j) In the event of an execution sale, the proceeds of the sale shall be applied in the following order and priority: first, to the discharge of all liens and encumbrances, if any, on the property; second, to the debtor, or the debtor's spouse if such person is the exemption claimant, in the amount of the exemption if allowed pursuant to this section; third, to the satisfaction of the execution; and fourth, to the debtor, or the debtor's spouse if such person is the exemption claimant.

(k) That portion of the proceeds from the sale of real property pursuant to an order of the court directing the issuance of a writ of execution pursuant to subdivision (f) of this section, which portion represents the amount of the exemption, shall be exempt for a period of six months from the date of receipt of the proceeds. Where such exempt proceeds are used for the purchase of a dwelling house, in which the debtor or the family of the debtor actually reside, within a period of six months following receipt, the subsequently acquired dwelling shall be exempt from execution. The exemption for the subsequently acquired real property shall have the same effect as if allowed on the date of the acquisition of or the commencement of residence by the debtor or the spouse of the debtor, whichever last occurred, in the property previously determined to be exempt, except with respect to a judgment or other obligation which by statute is given the force and effect of a judgment lien against the subsequently acquired property prior to its acquisition.

(l) Promptly upon receipt of the application filed by the judgment creditor, the order to show cause, and the notice specified in subdivision (d), or promptly upon receipt of the writ of execution and the notice specified in subdivision (g), and in no event less than 10 days prior to the date of the hearing specified in the notice under

subdivision (d) or the date of sale, as the case may be, the levying officer shall mail copies of the documents to the defendant and to any third person in whose name the property stands upon the records of the office of the tax assessor of the county where the property is located on the last business day preceding the date of mailing. Such copies shall be mailed first-class mail, postage prepaid, to the address of the defendant and any such third person as shown by the records of the office of the tax assessor. The levying officer shall also serve an occupant of the property with copies or, if there is no occupant on the property at the time service is attempted, the levying officer shall post a copy in a conspicuous place on the property. Service upon the occupant may be made by leaving the copies with the occupant personally, or, in the occupant's absence, with any person of suitable age and discretion, found upon the property at the time service is attempted and who is either an employee or agent of such occupant or a member of his family or household.

(m) The provisions of subdivisions (j), and (l) of Section 690.50 shall apply to proceedings under this section.

(n) An appeal lies from any judgment under this section. Such appeal shall be taken in the manner provided for appeals in the court in which the proceeding is had.

(o) The notice specified in subdivision (d) shall also be provided in Spanish as follows:

**“IMPORTANTE AVISO LEGAL AL PROPIETARIO DE CASA Y  
RESIDENTE**

1. Su casa está en peligro de ser vendida para cumplir con una orden judicial obtenida en la corte. Usted podría proteger la casa y los bienes raíces descritos en la solicitud adjunta de la ejecución y venta forzosa si usted o su familia actualmente residen en la propiedad y no tienen una casa propia legalmente registrada con el registrador del condado en alguna otra propiedad en el Estado de California. **USTED O SU ESPOSO(A) DEBEN VENIR A LA AUDIENCIA PARA DEMOSTRAR ESTOS PUNTOS.**

2. Si usted o su esposo(a) quieren disputar la venta forzosa de esta propiedad, usted o su esposo(a) deberán presentarse a

el \_\_\_\_\_

(Location set forth in OSC)

(Date and time)

y estar preparados para contestar las preguntas acerca de las declaraciones puestas en la solicitud adjunta. **EL ÚNICO PROPÓSITO DE ESTA AUDIENCIA SERÁ EL DE DETERMINAR SI LA PROPIEDAD PUEDE SER VENDIDA, Y NO SI USTED DEBE DINERO.**

3. **PARA SU PROPIA PROTECCIÓN, USTED DEBERÍA PRONTAMENTE DE BUSCAR EL CONSEJO DE UN ABOGADO EN ESTE ASUNTO.** Si usted es un inquilino y no reclama ser el dueño o el comprador de esta propiedad, este aviso no le afecta a usted. Por favor déselo a su arrendador.”

(p) The notice specified in subdivision (g) shall be provided in Spanish as follows:

**“IMPORTANTE AVISO LEGAL AL PROPIETARIO DE CASA Y RESIDENTE**

1. Recientemente se le entregó una orden de la corte pidiendo su presencia para una audiencia para determinar el porque la corte no debería de extenderle una orden de ejecución para la venta forzosa de su casa. USTED Y SU ESPOSA NO VINIERON A LA AUDIENCIA Y LA CORTE HA ORDENADO QUE SU CASA SEA VENDIDA PARA SATISFACER EL JUICIO EN CONTRA DE USTEDES.

2. Su ausencia de la audiencia ha contribuido para la emisión de la orden de ejecución. Si la ausencia de ustedes o de su abogado en la audiencia es excusable legalmente y creen de buena fe que su casa puede tener derecho a estar exonerada de ejecución, debería de completar el formato que está debajo y fecharlo, firmarlo, y devolverlo no a más tardar del \_\_\_\_\_. (Insert date no later than five days prior to sale.)

3. PARA SU PROPIA PROTECCIÓN, USTED DEBERÍA INMEDIATAMENTE BUSCAR EL CONSEJO DE UN ABOGADO. Si usted es un inquilino y no reclama ser el dueño o el comprador de esta propiedad, este aviso no le afecta a usted. Por favor d selo a su arrendador.

..... (Corte y Devuelva Este Formato a) .....

\_\_\_\_\_  
(Name and title of levying officer)

\_\_\_\_\_  
(Street address and city)

\_\_\_\_\_  
(Area code and telephone number of levying officer)

Declaro que mi ausencia de la pasada audiencia sobre si esta propiedad debería de ser vendida o no fue legalmente excusable. Yo, o mi esposo (a), actualmente residimos en esta propiedad y deseo una audiencia adicional para hacer valer mis derechos de exención bajo el C digo de Procedimiento Civil Secci n 690.31 y disputar la venta de mi casa. Entiendo que el oficial de la corte me notificar  de la fecha y del lugar de esta audiencia si devuelvo este formato inmediatamente y que debo asistir a esta audiencia.

Declaro bajo pena de perjurio que lo anterior es verdadero y est  correcto.

Firmado el \_\_\_\_\_ en \_\_\_\_\_ , California  
(Fecha) (Ciudad o condado)

\_\_\_\_\_  
(Firma del deudor (a) o de la esposa (o) del deudor (a))

Timely completion and return of the return portion of the Spanish translation of this form shall have the same force and effect as timely completion and return of the English language form.

SEC. 4. Section 722 of the Code of Civil Procedure is amended to read:

722. When any judgment debtor, or any person or corporation or officer or member of such corporation, does not reside or have a place of business in the county where the judgment roll is filed, an order authorized to be made under any of the provisions of this chapter may be made by any judge of a court of similar jurisdiction of the county where such judgment debtor or other person resides or has a place of business, or if there be no court of similar jurisdiction in such county, by a court of higher jurisdiction therein, upon filing with the clerk or judge of said court an abstract of the judgment, in the form prescribed by Section 674 of this code and upon presenting to the judge of such court an affidavit showing the existence of the facts required to be shown herein. At the time of filing such abstract, there shall be paid to such clerk or judge, as and for a filing fee, the sum of twelve dollars (\$12). No law library fee shall be charged.

SEC. 4.5. Section 26720.5 is added to the Government Code, to read:

26720.5. Notwithstanding Section 26720, fees otherwise payable by a litigant pursuant to this article shall be waived or, if paid, refunded, in any case in which the litigant is permitted by the court to proceed in forma pauperis under rules adopted by the Judicial Council pursuant to Section 68511.3.

This section is declaratory of existing law, and the enumeration in this section of fees to be waived shall not be construed to limit the power of the court to waive fees in other instances, as permitted or required under rules adopted by the Judicial Council pursuant to Section 68511.3.

SEC. 5. Section 26721 of the Government Code is amended to read:

26721. Except as provided in this article, the fee for serving or executing any process or notice required by law or the litigants to be served is eleven dollars (\$11).

SEC. 5.5. Section 26721.5 is added to the Government Code, to read:

26721.5. In Los Angeles County, the fee for serving or executing any process or notice required by law or the litigants to be served is eight dollars and fifty cents (\$8.50).

This section shall be repealed on January 1, 1982.

SEC. 6. Section 26725 of the Government Code is amended to read:

26725. The fee for serving, executing, or processing a writ of attachment, execution, or order on real estate is eleven dollars (\$11) as to the initial service or posting of a continuous unbroken parcel

or tract, and eleven dollars (\$11) for serving a record owner other than the defendant.

SEC. 6.5. Section 26725.5 is added to the Government Code, to read:

26725.5. In Los Angeles County, the fee for serving, executing, or processing a writ of attachment, execution, or order on real estate is eight dollars and fifty cents (\$8.50), as to the initial service or posting of a continuous unbroken parcel or tract, and eight dollars and fifty cents (\$8.50) for serving a record owner other than the defendant.

This section shall be repealed on January 1, 1982.

SEC. 7. Section 26728 of the Government Code is amended to read:

26728. The fee for preparing and posting the initial notice of personal property sale under attachment, execution, or order of court is eleven dollars (\$11).

SEC. 7.5. Section 26728.5 is added to the Government Code, to read:

26728.5. In Los Angeles County, the fee for preparing and posting the initial notice of personal property sale under attachment, execution, or order of court is eight dollars and fifty cents (\$8.50).

This section shall be repealed on January 1, 1982.

SEC. 8. Section 26730 of the Government Code is amended to read:

26730. The fee for conducting or postponing the sale of real or personal property as required by law or the litigant is eleven dollars (\$11).

SEC. 8.5. Section 26730.5 is added to the Government Code, to read:

26730.5. In Los Angeles County, the fee for conducting or postponing the sale of real or personal property as required by law or the litigant is eight dollars and fifty cents (\$8.50).

This section shall be repealed on January 1, 1982.

SEC. 9. Section 26733 of the Government Code is amended to read:

26733. The fee for serving a writ of possession or restitution, putting a person in possession of the premises, and removing the occupant is eleven dollars (\$11).

SEC. 9.5. Section 26733.5 is added to the Government Code, to read:

26733.5. In Los Angeles County, the fee for serving a writ of possession or restitution, putting a person in possession of the premises, and removing the occupant is eight dollars and fifty cents (\$8.50).

This section shall be repealed on January 1, 1982.

SEC. 10. Section 26734 of the Government Code is amended to read:

26734. The fee for making a levy on personal property already in possession of the officer who is holding same under attachment in the same action, is eleven dollars (\$11).

SEC. 10.5. Section 26734.5 is added to the Government Code, to read:

26734.5. In Los Angeles County, the fee for making a levy on personal property already in possession of the officer who is holding same under attachment in the same action, is eight dollars and fifty cents (\$8.50).

This section shall be repealed on January 1, 1982.

SEC. 11. Section 26735 of the Government Code is amended to read:

26735. The fee for serving and filing notices of attachment of the interest of a defendant in the estate of a decedent is eleven dollars (\$11) for serving the personal representative of the decedent, and eleven dollars (\$11) for filing a copy of the writ of attachment and notice with the county clerk.

SEC. 11.5. Section 26735.5 is added to the Government Code, to read:

26735.5. In Los Angeles County, the fee for serving and filing notices of attachment of the interest of a defendant in the estate of a decedent is eight dollars and fifty cents (\$8.50) for serving the personal representative of the decedent, and eight dollars and fifty cents (\$8.50) for filing a copy of the writ of attachment and notice with the county clerk.

This section shall be repealed on January 1, 1982.

SEC. 12. Section 26736 of the Government Code is amended to read:

26736. The fee for cancellation of the service or execution of any process or notice prior to its completion is eleven dollars (\$11). The fee provided by this section shall not be charged where a charge is made pursuant to the provisions of any other section of this article; nor shall such fee be charged where the cancellation is requested prior to the time a trip is made in attempting to serve or execute such process or notice.

SEC. 12.5. Section 26736.5 is added to the Government Code, to read:

26736.5. In Los Angeles County, the fee for cancellation of the service or execution of any process or notice prior to its completion is eight dollars and fifty cents (\$8.50). The fee provided by this section shall not be charged where a charge is made pursuant to the provisions of any other section of this article; nor shall such fee be charged where the cancellation is requested prior to the time a trip is made in attempting to serve or execute such process or notice.

This section shall be repealed on January 1, 1982.

SEC. 13. Section 26738 of the Government Code is amended to read:

26738. The fee for making a not-found return on a summons, affidavit and order, order for appearance, subpoena, writ of attachment, writ of execution, order for delivery of personal property, or other process or notice required to be served, certifying that the person or property cannot be found within the judicial

district in which the address specified is situated, is eleven dollars (\$11).

SEC. 13.5. Section 26738.5 is added to the Government Code, to read:

26738.5. In Los Angeles County, the fee for making a not-found return on a summons, affidavit and order, order for appearance, subpoena, writ of attachment, writ of execution, order for delivery of personal property, or other process or notice required to be served, certifying that the person or property cannot be found within the judicial district in which the address specified is situated, is eight dollars and fifty cents (\$8.50).

This section shall be repealed on January 1, 1982.

SEC. 14. Section 26742 of the Government Code is amended to read:

26742. The fee for executing and delivering any other instrument is eleven dollars (\$11).

SEC. 14.5. Section 26742.5 is added to the Government Code, to read:

26742.5. In Los Angeles County, the fee for executing and delivering any other instrument is eight dollars and fifty cents (\$8.50).

This section shall be repealed on January 1, 1982.

SEC. 15. Section 26743 of the Government Code is amended to read:

26743. The fee for subpoenaing a witness, including a copy of the subpoena and any affidavit required to be served therewith, is eleven dollars (\$11).

SEC. 15.5. Section 26743.5 is added to the Government Code, to read:

26743.5. In Los Angeles County, the fee for subpoenaing a witness, including a copy of the subpoena and any affidavit required to be served therewith, is eight dollars and fifty cents (\$8.50).

This section shall be repealed on January 1, 1982.

SEC. 16. Section 26744 of the Government Code is amended to read:

26744. The fee for serving or executing a bench warrant arising from an order of appearance issued under Sections 545, 714, 715 or 717 of the Code of Civil Procedure shall be eleven dollars (\$11).

SEC. 16.5. Section 26744.5 is added to the Government Code, to read:

26744.5. In Los Angeles County, the fee for serving or executing a bench warrant arising from an order of appearance issued under Section 545, 714, 715, or 717 of the Code of Civil Procedure shall be eight dollars and fifty cents (\$8.50).

This section shall be repealed on January 1, 1982.

SEC. 17. Section 26820.4 is added to the Government Code, to read:

26820.4. The total fee for filing of the first paper in a civil action or proceeding in the superior court, except an adoption proceeding,

shall be the sum fixed by the board of supervisors pursuant to Section 68090, which shall not exceed the following maximum amounts:

(1) In any county where a fee is collected for the court reporter fund, the total fee shall not exceed seventy-five dollars (\$75).

(2) In any county where a fee is not collected for the court reporter fund, the total filing fee shall not exceed fifty-three dollars (\$53).

This section applies to the initial complaint, petition, or application, and the papers transmitted from another court on the transfer of a civil action or proceeding, but does not include documents filed pursuant to Section 491.030 or Section 722 of the Code of Civil Procedure or Section 11625 of the Elections Code.

SEC. 18. Section 26820.6 is added to the Government Code, to read:

26820.6. The term "total fee" as used in Sections 26820.4, 26826, and 26827, includes the clerk's fee, the amount allocated to the Judges' Retirement Fund pursuant to Section 26822.3, any amount allocated to the court reporter fund, and the law library fee pursuant to Article 2 (commencing with Section 6320) of Chapter 5 of Division 3 of the Business and Professions Code. The fees authorized for the maintenance of the conciliation court pursuant to Sections 26840.3 and 26840.4 may be included in the total fee, or may be in addition thereto, as determined by the board of supervisors pursuant to Section 68090.

SEC. 19. Section 26820.8 is added to the Government Code, to read:

26820.8. The maximum amounts set forth in Sections 26820.4, 26826, and 26827, shall be deemed adjusted, effective January 1, 1983, and on January 1 of each odd-numbered year thereafter, to reflect changes in the value of the dollar. Such adjustments shall be made by multiplying the base amounts by the percent change in the California Consumer Price Index as compiled and reported by the California Department of Industrial Relations with the result rounded to the nearest dollar, however, such adjustment shall not exceed three percent per year.

SEC. 20. Section 26821 of the Government Code is repealed.

SEC. 21. Section 26821 is added to the Government Code, to read:

26821. As part of the fees collected pursuant to Sections 26820.4, 26826, and 26827, a clerk's fee for filing the first paper, fixed in accordance with Section 68090, shall be collected. Sections 26820.4, 26826, 26827, and 68090 shall not apply to the filing fees of the Superior Court of the City and County of San Francisco.

SEC. 22. Section 26821.2 of the Government Code is repealed.

SEC. 23. Section 26822 of the Government Code is repealed.

SEC. 24. Section 26822.2 of the Government Code is repealed.

SEC. 25. Section 26822.3 of the Government Code is amended to read:

26822.3. As part of the fees collected pursuant to Sections 26820.4, 26826, 26827, and in addition to the fees collected pursuant to

Sections 26821.1, 26826.1, and 26827.3, a fee of three dollars (\$3) shall be collected.

The funds shall be transmitted at the end of each month to the State Controller for payment into the Judges' Retirement Fund.

SEC. 26. Section 26823 of the Government Code is amended to read:

26823. When the venue in a case is changed, the fee for making up and transmission of transcript and papers is twelve dollars (\$12) and a further sum equal to the total fee for filing in the court to which the case is transferred. The clerk shall transmit the total filing fee with the papers in the case to the clerk or judge of the court to which the case is transferred.

SEC. 27. Section 26824 of the Government Code is amended to read:

26824. The fee for filing a notice of appeal from a municipal or justice court in a civil action or a special proceeding is twenty dollars (\$20). The Judicial Council may make rules governing the time and method of payment and providing for excuse.

SEC. 28. Section 26826 of the Government Code is amended to read:

26826. The total fee for filing the first paper in the action on behalf of any defendant, intervenor, respondent, or adverse party, whether separately or jointly, except for the purpose of making disclaimer shall be the sum fixed by resolution adopted pursuant to Section 68090, which shall not exceed the following maximum amounts:

(1) In any county where a fee is collected for the court reporter fund, the total fees shall not exceed fifty-five dollars (\$55).

(2) In any county where a fee is not collected for the court reporter fund, the total fee shall not exceed thirty dollars (\$30).

As used in this section the word "paper" does not include a stipulation for the appointment of a judge pro tempore or of a court investigator or the report made by such investigator or the declaration of a spouse filed in an order to show cause proceeding.

SEC. 29. Section 26826.2 of the Government Code is repealed.

SEC. 30. Section 26827 of the Government Code is amended to read:

26827. (a) The total fee for filing the first petition for letters of administration, a petition for special letters of administration, a petition for letters testamentary, a first account of a testamentary trustee, a petition for letters of guardianship, a petition for letters of conservatorship, a petition for compromise of minor's claim, or a petition to contest any will or codicil shall be the sum fixed by resolution pursuant to Section 68090, which shall not exceed the following maximum amounts:

(1) In any county where a fee is collected for the court reporter fund, the total fees shall not exceed seventy-five dollars (\$75).

(2) In any county where a fee is not collected for the court reporter fund, the total fee shall not exceed fifty-three dollars (\$53).

(b) The fee set forth in subdivision (a) shall also be charged for filing any subsequent petition for letters of administration, special letters of administration, letters testamentary, letters of guardianship, letters of conservatorship, or a first account of a testamentary trustee, or a petition to contest any will or codicil, in the same proceeding, by a person other than the original petitioner. When the public administrator or an employee of the State Department of Mental Health in his official capacity is the petitioner, he shall be required to pay the fee only out of the assets of the estate coming into his possession.

SEC. 31. Section 26827.2 of the Government Code is repealed.

SEC. 32. Section 26827.4 is added to the Government Code, to read:

26827.4. The fee for the filing of a subsequent paper in a probate action which requires a court hearing shall be twelve dollars (\$12). This section does not apply to petitions filed pursuant to subdivision (b) of Section 26827.

SEC. 33. Section 26828 of the Government Code is amended to read:

26828. The fee for issuing a writ of attachment, a writ of mandate, a writ of execution, a writ of restitution, a writ of possession, a writ of prohibition, or any writ for the enforcement of any order or judgment is three dollars (\$3).

SEC. 34. Section 26829 of the Government Code is amended to read:

26829. The fee for issuing an order of sale is six dollars (\$6).

SEC. 35. Section 26830 of the Government Code is amended to read:

26830. The fee for filing any notice of motion, or any other paper requiring a hearing subsequent to the first paper, or any notice of intention to move for a new trial of any civil action or special proceeding is twelve dollars (\$12).

SEC. 36. Section 26833 of the Government Code is amended to read:

26833. The fee for certifying to a copy of any paper, record, or proceeding on file in the office of the county clerk is one dollar and fifty cents (\$1.50).

SEC. 37. Section 26834 of the Government Code is amended to read:

26834. The fee for issuing an abstract of judgment is three dollars (\$3).

SEC. 38. Section 26836 of the Government Code is amended to read:

26836. For every certificate the fee for which is not otherwise fixed, the fee is one dollar and fifty cents (\$1.50).

SEC. 39. Section 26837 of the Government Code is amended to read:

26837. For comparing with the original on file in the office of the county clerk, the copy of any paper, record, or proceeding prepared

by another and presented for his certificate, the fee is fifty cents (\$0.50) a page, in addition to the fee for his certificate.

SEC. 40. Section 26838 of the Government Code is amended to read:

26838. The fee for a certificate required by courts of appeal or the Supreme Court on filing a notice of motion prior to the filing of the record on appeal in the reviewing court is twelve dollars (\$12).

SEC. 41. Section 26839 of the Government Code is amended to read:

26839. For an exemplification of a record or other paper on file, the fee is six dollars (\$6) and the charges allowed for copying or comparing.

SEC. 42. Section 26853 of the Government Code is amended to read:

26853. The fee for taking an affidavit, except in criminal cases or adoption proceedings, is two dollars (\$2).

SEC. 43. Section 26854 of the Government Code is amended to read:

26854. The fee for searching records or files is one dollar and fifty cents (\$1.50) for each year.

SEC. 44. Section 68090 is added to the Government Code, to read:

68090. The board of supervisors may, within the 90 days preceding January 1, 1981, and within the 90 days preceding January 1 of each odd-numbered year thereafter, by resolution, fix the amounts to be charged as total filing fees in the courts within the county pursuant to Sections 26820.4, 26826, 26827, 72055, and 72056, and establish the components thereof, for the succeeding two-year period. A copy of each such resolution shall be forwarded promptly to the Judicial Council. If no resolution is adopted pursuant to this section, the fees shall continue in the amounts previously authorized.

SEC. 45. Section 71664.5 of the Government Code is amended to read:

71664.5. Except as otherwise provided by law, the judge or clerk of each justice court shall charge, in addition to the fees prescribed by this article, the fees prescribed by Sections 72054, 72055, 72056, 72059, 72060, and 72061 for all services to be performed.

SEC. 46. Section 71665 of the Government Code is repealed.

SEC. 47. Section 71665.5 of the Government Code is repealed.

SEC. 48. Section 71666 of the Government Code is repealed.

SEC. 49. Section 71667 of the Government Code is repealed.

SEC. 50. Section 71669 of the Government Code is repealed.

SEC. 51. Section 71674 of the Government Code is repealed.

SEC. 52. Section 71677 of the Government Code is repealed.

SEC. 53. Section 71679 of the Government Code is repealed.

SEC. 54. Section 72054 of the Government Code is amended to read:

72054. Except as otherwise provided by law, the clerk of each municipal court and the clerk of each justice court shall charge the fees prescribed by this article, and the fees prescribed by Sections

26823, 26828, 26829, 26830, 26831, 26832, 26833, 26834, 26836, 26837, 26839, 26853 and 26855, for all services to be performed.

SEC. 55. Section 72055 of the Government Code is amended to read:

72055. The total fee for filing of the first paper in a civil action or proceeding in the municipal or justice court, shall be the sum fixed by the board of supervisors pursuant to Section 68090, which shall not exceed the following maximum amounts:

(1) In any court where a fee is collected for the court reporter fund, the total fee shall not exceed thirty-five dollars (\$35).

(2) In any court where a fee is not collected for the court reporter fund, the total fee shall not exceed twenty-five dollars (\$25).

This section applies to the initial complaint, petition, or application, and any papers transmitted from another court on the transfer of a civil action or proceeding, but does not include documents filed pursuant to Section 491.030 or Section 722 of the Code of Civil Procedure.

The term "total fee" as used in this section and Section 72056 includes the clerk's fee, any amount allocated to the Judges' Retirement Fund pursuant to Section 72056.1, any amount allocated to the court reporter fund, and the law library fee pursuant to Article 2 (commencing with Section 6320) of Chapter 5 of Division 3 of the Business and Professions Code.

SEC. 56. Section 72056 of the Government Code is amended to read:

72056. The total fee for filing of the first paper in a civil action or proceeding on behalf of any party other than plaintiff shall be the sum fixed by the board of supervisors pursuant to Section 68090, which shall not exceed the following maximum amounts:

(1) In any court where a fee is collected for the court reporter fund, the total fee shall not exceed thirty dollars (\$30).

(2) In any court where a fee is not collected for the court reporter fund, the total fee shall not exceed fifteen dollars (\$15).

SEC. 57. Section 72056.5 is added to the Government Code, to read:

72056.5. The maximum amounts set forth in Sections 72055 and 72056 shall be deemed adjusted, effective January 1, 1983, and on January 1 of each odd-numbered year thereafter, to reflect changes in the value of the dollar. Such adjustments shall be made by multiplying the base amounts by the percent change in the California Consumer Price Index as compiled and reported by the California Department of Industrial Relations, with the result rounded to the nearest dollar; however, any such adjustment shall not exceed three percent per year.

SEC. 58. Section 72057 of the Government Code is repealed.

SEC. 59. Section 72058 of the Government Code is repealed.

SEC. 60. Section 72059 of the Government Code is amended to read:

72059. The fee for receiving and filing an abstract of judgment

rendered by a judge of another court and for subsequent services based on it is twelve dollars (\$12).

SEC. 61. Section 72060 of the Government Code is amended to read:

72060. The fee for certificate and transmitting transcript and papers on appeal is six dollars (\$6).

SEC. 62. Section 72062 of the Government Code is repealed.

SEC. 63. Section 72065 of the Government Code is repealed.

SEC. 64. Section 72066 of the Government Code is repealed.

SEC. 65. Section 72068 of the Government Code is repealed.

SEC. 66. Section 10554 of the Health and Safety Code is amended to read:

10554. The fee for filing the petition shall be six dollars (\$6), plus the law library fee of the county. In counties having more than one superior court judge, the petition may be heard by any judge thereof hearing probate matters, or if a probate department has been designated for hearing probate matters, the clerk shall assign the matter to the probate department for hearing.

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## CHAPTER 1373

An act to add Sections 56347, 56500.1, and 56500.2 to the Education Code, relating to special education.

[Became law without Governor's signature. Filed with  
Secretary of State October 1, 1980.]

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

SECTION 1. Section 56347 is added to the Education Code, to read:

56347. Each district, special education service region, or county office shall, prior to the placement of the individual with exceptional needs, ensure provision of a copy of his or her individualized education program to the regular teacher or teachers, the special education teacher or teachers, and other persons who provide special education, related services, or both to the individual with exceptional needs. Copies of the individualized education program shall be provided in accordance with state and federal pupil record confidentiality laws.

SEC. 2. Section 56500.1 is added to the Education Code, to read:

56500.1. All procedural safeguards of Public Law 94-142, the Education for All Handicapped Children Act of 1975, shall be established and maintained by each noneducational and educational agency that provides education, related services, or both, to children who are individuals with exceptional needs.

SEC. 3. Section 56500.2 is added to the Education Code, to read:

56500.2. An expeditious and effective process shall be

implemented for the resolution of complaints regarding any alleged violations of the provisions of the Education for All Handicapped Children Act of 1975.

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.

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## CHAPTER 1374

An act to amend Section 87271 of, and to amend, repeal, and add Section 87272 of, the Education Code, relating to community colleges, making an appropriation therefor, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature. Filed with  
Secretary of State October 1, 1980 ]

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

SECTION 1. The Legislature hereby declares that the Credentials Unit within the Chancellor's Office of the California Community Colleges is a self-supported unit which credentials all individuals who teach within its system. It benefits postsecondary education by insuring quality instructors within the community colleges.

The Legislature further finds that the budget of this unit has been augmented by federal funds which are no longer available. Therefore, the Legislature hereby recognizes the need to support an increase in the credentialing fee in order to insure sufficient support for the administrative functions of the unit.

SEC. 2. Section 87271 of the Education Code is amended to read:  
87271. There is in the State Treasury the Community College Credentials Fund. All fees levied and collected by the community colleges shall be deposited in the Community College Credentials Fund, and are hereby continuously appropriated to support the credentialing related activities and functions of the board of governors.

It is the intent of the Legislature that fees levied for the issuance of teachers' credentials shall be sufficient to offset the cost of credentialing related activities of the board of governors, including the committee of credentials, any services provided by the Department of Education, and investigative services provided by the Department of Justice.

SEC. 3. Section 87272 of the Education Code is amended to read:

87272. Fees shall be levied by the board of governors for the issuance and renewal of teaching and related credentials, and the fingerprint investigative check conducted by the Department of Justice. The fees shall be set by the board in such a manner that revenues shall be produced sufficient to support the credentialing related activities and functions of both agencies, including continuing research and evaluation activities. In no case shall a fee exceed thirty dollars (\$30) without express legislative approval.

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. 4. Section 87272 is added to the Education Code, to read:

87272. Fees shall be levied by the board of governors for the issuance and renewal of teaching and related credentials, and the fingerprint investigative check conducted by the Department of Justice. The fees shall be set by the board in such a manner that revenues shall be produced sufficient to support the credentialing related activities and functions of both agencies, including continuing research and evaluation activities. In no case shall a fee exceed twenty dollars (\$20) without express legislative approval.

This section shall become operative January 1, 1982.

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 maintain adequate financial support for the administrative functions of the Credentials Unit within the Chancellor's Office of the California Community Colleges, it is necessary that this act take immediate effect.

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## CHAPTER 1375

An act to amend Sections 13960, 13961, and 13964 of, and to add Section 13961.3 to, the Government Code, relating to victims of crimes.

[Became law without Governor's signature Filed with  
Secretary of State October 1, 1980]

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

SECTION 1. Section 13960 of the Government Code is amended to read:

13960. As used in this article:

- (a) "Victim" shall mean any of the following persons:
- (1) A person who sustains injury or death as a direct result of a crime of violence.
  - (2) Anyone legally dependent for his support upon a person who

sustains injury or death as a direct result of a crime of violence.

(3) Any member of the family of a victim specified by paragraph (1) or any person in close relationship to such victim, if such member or person was present during the actual commission of the crime.

(4) In the event of a death caused by a crime of violence, any individual who legally assumes the obligation, or who voluntarily pays the medical or burial expenses incurred as a direct result thereof.

(b) "Injury" shall include physical or emotional injury. However, this article shall not be construed to apply to emotional injury unless such an injury is incurred by a person who also sustains physical injury or threat of physical injury or by a member or person as defined in paragraph (3) of subdivision (a).

(c) "Crime of violence" shall mean a crime or public offense as defined in Section 15 of the Penal Code which results in injury to a resident of this state, including such a crime or public offense, wherever it may take place, when such resident is temporarily absent from the state. No act involving the operation of a motor vehicle, aircraft, or water vehicle which results in injury or death shall constitute a crime of violence for the purposes of this article, except that a crime of violence shall include any of the following:

(1) Injury or death intentionally inflicted through the use of a motor vehicle, aircraft, or water vehicle.

(2) Injury or death sustained in an accident caused by a driver in violation of Section 20001, 23101, 23102, 23105, or 23106 of the Vehicle Code.

(3) Injury or death sustained in an accident caused by a driver of a motor vehicle in the immediate act of fleeing the scene of a crime of violence in which he knowingly and willingly participated.

(d) "Board" shall mean the State Board of Control.

(e) "Pecuniary loss" shall mean the amount of medical or medical related expense, which may include psychological or psychiatric expenses, and shall include, but not be limited to, eyeglasses, hearing aids, dentures, or any prosthetic device which were taken, lost, or destroyed during the commission of the crime, or became necessary as a direct result of the crime. Pecuniary loss shall also include the amount of medical or medical related expense which may include psychological or psychiatric expenses incurred by any person whose treatment or presence during treatment of the victim is medically required for the successful treatment of the victim. Pecuniary loss shall also include the loss of income or support that the victim has incurred or will incur as a direct result of an injury or death to the extent that the victim has not been or will not be indemnified from any other source. Said loss shall be in an amount of more than one hundred dollars (\$100) or equal to 20 percent or more of the victims' net monthly income, whichever is less, except that in the case of persons on fixed incomes from retirement or disability who apply for assistance under this article, there shall be no minimum loss requirement. Pecuniary loss also includes nonmedical remedial care

and treatment rendered in accordance with a religious method of healing recognized by state law.

(f) "Serious financial hardship" shall mean the applicant does not have liquid assets in excess of thirty thousand dollars (\$30,000). Liquid assets for the purposes of this article, shall mean cash readily available for use by the applicant without inflicting any penalty or financial loss upon the applicant by the transfer of such funds.

SEC. 2. Section 13961 of the Government Code is amended to read:

13961. (a) A victim of a crime of violence may file an application for assistance with the board provided that the victim was a resident of California at the time the crime was committed and either:

(1) The crime was committed in California; or

(2) The person whose injury or death gave rise to the application was a resident of California who was injured or killed while temporarily outside the state.

(b) The board shall supply and make available an application form for this purpose. In no case shall such form be in more than one part, in order to expedite the application process. Such form shall be in laymen's terms, allowing for a "yes" or "no" response to the questions asked whenever possible, easily understood by the majority of applicants, assuming an applicant would be reading the brochure and completing the form without legal assistance, and shall be accompanied by an information brochure containing, but not limited to, the following information:

(1) The eligibility of applicants, the types of claims covered and the maximum amount payable for such claims.

(2) Information explaining the procedure to be used to evaluate an applicant's claims.

(3) Other information pertinent to the applicant as deemed necessary by the board.

(c) The period prescribed for the filing of an application for assistance shall be one year after the date of the crime, unless an extension is granted by the board, except that such period may be extended by the State Board of Control for good cause shown by the victim.

(d) The application for assistance shall be verified and shall contain the following:

(1) A description of the date, nature, and circumstances of the crime or public offense.

(2) A complete financial statement including but not limited to the cost of medical care or burial expense and the loss of wages or support the victim has incurred or will incur and the extent to which the victim has been or may be indemnified for these expenses from any source.

(3) When appropriate, a statement indicating the extent of any disability resulting from the injury incurred.

(4) An authorization permitting the State Board of Control to verify the contents of the application.

(5) Such other information as the board may require.

SEC. 3. Section 13961.3 is added to the Government Code, to read:

13961.3. A Victim Compensation Form Committee shall be established by the board to develop the application form described in Section 13961. The committee shall consist of one representative from and appointed by the board and two representatives from local victim assistance programs appointed by the executive director of the Office of Criminal Justice Planning.

SEC. 4. Section 13964 of the Government Code is amended to read:

13964. After having heard the evidence relevant to the application for assistance, the board shall approve the application if a preponderance of the evidence shows that as a direct result of the crime the victim incurred an injury which resulted in a pecuniary loss which the victim is unable to recoup without suffering serious financial hardship.

(a) An application for assistance may be denied, in whole or in part, if:

(1) The board finds that such denial is appropriate because of the nature of the victim's involvement in the events leading to the crime or the involvement of the persons whose injury or death gave rise to the application; or

(2) The board finds that the victim will not suffer serious financial hardship or pecuniary loss, as a result of the loss of earnings or support and out-of-pocket expense incurred as a result of the injury which gave rise to the application for assistance pursuant to this article.

(b) No victim shall be eligible for assistance under the provisions of this article if:

(1) The board finds that the victim or the person whose injury or death gave rise to the application knowingly and willingly participated in the commission of the crime; or

(2) The victim or the person whose injury or death gave rise to the application failed to cooperate with a law enforcement agency in the apprehension and conviction of a criminal committing the crime.

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## CHAPTER 1376

An act to amend Section 22451.1 of the Financial Code, relating to loans, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature. Filed with Secretary of State October 1, 1980.]

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

SECTION 1. Section 22451.1 of the Financial Code is amended to read:

22451.1. As an alternative to the charges authorized by Section 22451 a licensee may contract for and receive charges at a rate not exceeding 1.6 percent per month on the unpaid principal balance.

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:

A major increase in interest rates affecting all segments of the economy has led to substantial curtailment of consumer credit with a resulting adverse impact on the ability of many creditors to remain in business. An immediate increase in interest rate ceilings is necessary to prevent failure of many creditors and loss of employment opportunities.

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## CHAPTER 1377

An act relating to the drinking driver.

[Became law without Governor's signature Filed with  
Secretary of State October 1, 1980.]

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

SECTION 1. The Legislature finds and declares as follows:

- (a) Alcoholism is the most serious drug problem in California.
- (b) The annual economic costs of alcohol abuse and alcoholism amount to four billion two hundred million dollars (\$4,200,000,000) in California.
- (c) Drinking drivers cause substantial fatalities, permanent disability, and property damage on California highways, and some individuals repeatedly drive while under the influence of alcohol.
- (d) The development of alternative alcohol countermeasures for individuals convicted of a second or subsequent incident of drunk driving should be encouraged.
- (e) The National Highway Traffic Safety Administration of the United States Department of Transportation has awarded to Systems Technology, Inc., four hundred fifty thousand dollars (\$450,000) to test the effectiveness of the Drunk Driver Warning System as Contract DOT-HS-8-02052.
- (f) Laboratory studies suggest that the Drunk Driver Warning System could deter, or interfere with, a large percentage of trips in which the driver was impaired by alcohol, and the Drunk Driver Warning System has been designed to warn other drivers of the presence of an impaired driver on the roadway.

(g) The results of the project authorized by this act will be of importance to the Legislature in determining the effectiveness of in-vehicle countermeasures designed to reduce the threat of drinking drivers to the public's peace, health, and safety.

SEC. 2. Systems Technology, Inc., for the purposes of completing its contract with the United States Department of Transportation for the period ending January 1982, may employ a rigorous experimental design testing the utility of the Drunk Driver Warning System for deterring drunk driving trips among persons convicted of a second drunk driving charge, without the confounding effects of treatment, on no more than 24 subjects in Los Angeles County who have been convicted of a second offense of driving under the influence of alcohol in violation of Section 23102 of the Vehicle Code.

SEC. 3. Any Los Angeles Municipal Court, in lieu of authorized disposition under existing law, may refer a second offender to Systems Technology, Inc., for screening. If accepted into the pilot project authorized by Section 2 of this act, a person shall not be subject to license suspension under Section 13352 of the Vehicle Code. If not so accepted into the pilot project, a person shall be subject to all the provisions of existing law as carried out by the court and other designated agencies.

SEC. 4. The pilot project authorized under Section 2 of this act is not a program for purposes of required approval under Chapter 9 (commencing with Section 11837) of Part 2 of Division 10.5 of the Health and Safety Code.

SEC. 5. (a) Notwithstanding the requirements of subdivisions (e) and (f) of Section 23102 of the Vehicle Code, 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 in a program approved pursuant to this act, the court has referred the person to such a program, and the person has been accepted. 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.

(b) When the court has imposed sentence as provided in subdivision (a), the Department of Motor Vehicles shall suspend the driving privilege pursuant to Section 13352 of the Vehicle Code.

SEC. 6. For the purposes of this act, Systems Technology, Inc., shall not be required to obtain, nor shall the Department of the California Highway Patrol be required to issue, a permit pursuant to Section 26106 of the Vehicle Code. Vehicles which are permitted under this act to be equipped with the drunk driving warning system may automatically flash the hazard warning lamps or blow the horn intermittently, notwithstanding any contrary provisions of the Vehicle Code.

SEC. 7. This act shall be operative only until January 1, 1983, and

on that date is repealed, unless a later enacted statute, chaptered on or before January 1, 1983, deletes or extends such date.

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## CHAPTER 1378

An act to amend Section 13213 of the Health and Safety Code, relating to high rise structures.

[Became law without Governor's signature. Filed with  
Secretary of State October 1, 1980.]

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

SECTION 1. Section 13213 of the Health and Safety Code is amended to read:

13213. (a) Building standards and other regulations of the State Fire Marshal applicable to existing high-rise structures shall provide to the greatest feasible extent for the safety of occupants of the high-rise structure and persons involved in fire suppression activities. All existing high-rise structures shall be conformed to the requirements contained in such building standards and such other regulations on or before April 26, 1979.

(b) The period for compliance with such requirements may be extended upon showing of good cause for such extension if a systematic and progressive plan of correction is submitted to, and approved by, the enforcing agency. Such extension shall not exceed two years from the date of approval of such plan. Any plan of correction submitted pursuant to this subdivision shall be submitted and approved on or before April 26, 1979.

(c) This section shall not apply to structures located in a city and county if all of the following conditions exist:

- (1) The structure is used solely for residential purposes.
- (2) The structure contains 12 or fewer dwelling units.
- (3) Each dwelling unit in the structure is owner-occupied.
- (4) The structure is made of reinforced concrete.
- (5) Each dwelling unit in the structure has at least two exits, one of which may be an existing exterior fire escape.

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## CHAPTER 1379

An act to add Sections 991 and 1043.5 to the Penal Code, relating to criminal procedure.

[Became law without Governor's signature. Filed with  
Secretary of State October 1, 1980.]

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

SECTION 1. Section 991 is added to the Penal Code, to read:

991. (a) If the defendant is in custody at the time he appears before the magistrate for arraignment and, if the public offense is a misdemeanor to which the defendant has pleaded not guilty, the magistrate, on motion of counsel for the defendant or the defendant, shall determine whether there is probable cause to believe that a public offense has been committed and that the defendant is guilty thereof.

(b) The determination of probable cause shall be made immediately unless the court grants a continuance for good cause not to exceed three court days.

(c) In determining the existence of probable cause, the magistrate shall consider any warrant of arrest with supporting affidavits, and the sworn complaint together with any documents or reports incorporated by reference thereto, which, if based on information and belief, state the basis for such information, or any other documents of similar reliability.

(d) If, after examining these documents, the court determines that there exists probable cause to believe that the defendant has committed the offense charged in the complaint, it shall set the matter for trial.

If the court determines that no such probable cause exists, it shall dismiss the complaint and discharge the defendant.

(e) Within 15 days of the dismissal of a complaint pursuant to this section the prosecution may refile the complaint.

A second dismissal pursuant to this section is a bar to any other prosecution for the same offense.

SEC. 2. Section 1043.5 is added to the Penal Code, to read:

1043.5. (a) Except as otherwise provided in this section, the defendant in a preliminary hearing shall be personally present.

(b) The absence of the defendant in a preliminary hearing after the hearing has commenced in his presence shall not prevent continuing the hearing to, and including, holding to answer, filing an information, or discharging the defendant in any of the following cases:

(1) Any case in which the defendant, after he has been warned by the judge that he will be removed if he continued his disruptive behavior, nevertheless insists on conducting himself in a manner so disorderly, disruptive, and disrespectful of the court that the hearing cannot be carried on with him in the courtroom.

(2) Any prosecution for an offense which is not punishable by death in which the defendant is voluntarily absent.

(c) Any defendant who is absent from a preliminary hearing pursuant to paragraph (1) of subdivision (b) may reclaim his right to be present at the hearing as soon as he is willing to conduct himself consistently with the decorum and respect inherent in the concept of courts and judicial proceedings.

(d) Subdivisions (a) and (b) shall not limit the right of a defendant to waive his right to be present in accordance with Section 977.

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## CHAPTER 1380

An act to amend, add, and repeal Section 7030 of the Business and Professions Code, and to amend Sections 1799.5, 1802.2, 1802.10, 1802.11, 1803.2, 1803.3, 1803.6, 1804.3, 1805.1, 1805.6, 1806.3, 1807.1, 1808.6, 2924c, 2981, 2981.8, 2982, and 2982.8 of, to add Section 2982.3 to, and to repeal and add Sections 1804.3, 1805.1, and 2984.2 of, the Civil Code, relating to regulated transactions, and declaring the urgency thereof, to take effect immediately.

[Became law without Governor's signature. Filed with Secretary of State October 1, 1980.]

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

**SECTION 1.** Section 7030 of the Business and Professions Code is amended to read:

**7030.** Every person licensed pursuant to this chapter shall include the following information in at least 10-point type on all written contracts with respect to which such person is a prime contractor, in either of the following forms:

(a) Contractors are required by law to be licensed and regulated by the Contractors' State License Board. Any questions concerning a contractor may be referred to the registrar of the board whose address is:

Contractors' State License Board  
1020 N Street  
Sacramento, California 95814

(b) Contractors are required by law to be licensed and regulated by the Contractors' State License Board. Any questions concerning a contractor may be referred to the Registrar, Contractors' State License Board, 1020 N Street, Sacramento, California 95814.

This section shall remain in effect only until July 1, 1981, and as of such date is repealed.

**SEC. 1.5.** Section 7030 is added to the Business and Professions Code, to read:

**7030.** Every person licensed pursuant to this chapter shall include the following statement in at least 10-point type on all written contracts with respect to which such person is a prime contractor:

"Contractors are required by law to be licensed and regulated by the Contractors' State License Board. Any questions concerning a contractor may be referred to the Registrar, Contractors' State License Board, 1020 N Street, Sacramento, California 95814."

This section shall become operative July 1, 1981.

SEC. 2. Section 1799.5 of the Civil Code is amended to read:

1799.5. (a) "Precomputed interest" means interest, as that term is contemplated by the Truth in Lending Act, 15 United States Code 1605(a)(1), which is (1) computed by multiplying the original balance of the loan by a rate and multiplying that product by the number of payment periods elapsing between the date of the loan and the date of the last scheduled payment and (2) either added to the original principal balance of the loan in advance or subtracted from the loan proceeds.

(b) No loan which is made to a natural person primarily for personal, family, or household purposes shall provide for the payment of precomputed interest if the date on which the final installment is due, according to the original terms of the loan, is more than 62 months after the date of the loan.

(c) For purposes of determining whether a loan is covered by this title, the lender may conclusively rely on any written statement of intended purpose signed by the borrower. Such written statement may be a separate statement signed by the borrower or may be contained in a loan application or other document signed by the borrower.

(d) For purposes of this title, the term "loan" does not include the forbearance of a debt arising from a sale or lease of property and does not include any loan arising under an open end credit plan.

(e) This title shall apply only to loans made on or after January 1, 1983.

SEC. 3. Section 1802.2 of the Civil Code is amended to read:

1802.2. "Services" means work, labor and services, for other than a commercial or business use, including services furnished in connection with the sale or repair of goods as defined in Section 1802.1 or furnished in connection with the repair of motor vehicles (except for service contracts as defined by subdivision (o) of Section 2981 which are sold in conjunction with the sale of a vehicle required to be registered under the Vehicle Code) or in connection with the improvement of real property or the providing of insurance, but does not include the services of physicians or dentists, nor services for which the tariffs, rates, charges, costs or expenses, including in each instance the deferred payment price, are required by law to be filed with and approved by the federal government or any official, department, division, commission or agency of the United States.

SEC. 4. Section 1802.10 of the Civil Code is amended to read:

1802.10. "Finance charge" means the amount however denominated or expressed which the retail buyer contracts to pay or pays for the privilege of purchasing goods or services to be paid for by the buyer in installments; it does not include the amounts, if any, charged for insurance premiums, delinquency charges, attorney's fees, court costs, collection expenses, official fees, extension or deferral agreement charges as provided by Section 1807.1, or amounts for insurance, repairs to or preservation of the goods, or preservation of the holder's security interest therein advanced by

the holder subsequent to the execution of a contract.

SEC. 5. Section 1802.11 of the Civil Code is amended to read:

1802.11. "Unpaid balance" means the cash price of the goods or services which are the subject matter of the retail installment sale, plus the amounts, if any, included in a retail installment sale for insurance and official fees, minus the amount of the buyer's downpayment in money or goods.

SEC. 6. Section 1803.2 of the Civil Code, as amended by Section 7.3 of Chapter 805 of the Statutes of 1979, is amended to read:

1803.2. Except as provided in Section 1808.3, every retail installment contract shall be contained in a single document which shall contain:

(a) The entire agreement of the parties with respect to the cost and terms of payment for the goods and services, including any promissory notes or any other evidences of indebtedness between the parties relating to the transaction.

(b) Either at the top of the contract or directly above the space reserved for the signature of the buyer, the words "Security Agreement" or "Lien Contract," as the case may be, shall appear in at least 10-point bold type where a security interest in the goods is retained or a lien on other goods or realty is obtained by the seller as security for the goods or services purchased. Either at the top of the contract or directly above the space reserved for the signature of the buyer, the words "Retail Installment Contract" shall appear in at least 10-point bold type where a security interest or lien is not obtained by the seller as security for the goods or services purchased. As used in this subdivision, the terms "security interest" and "lien" refer to a contractual interest in property and not to a mechanic's lien or other interest in property arising by operation of law.

(c) Where the contract includes a finance charge which is determined on the precomputed basis and provides that the unearned portion of the finance charge to be refunded upon full prepayment of the contract is to be determined by a method other than actuarial, a notice as set forth in paragraph (1), (2) or (3) in at least 10-point bold type if the contract is printed.

(1) "Notice to the buyer: (1) Do not sign this agreement before you read it or if it contains any blank space. (2) You are entitled to a completely filled-in copy of this agreement. (3) Under the law, you have the right to pay off in advance the full amount due and to obtain a partial refund of the finance charge, if any, provided for herein. (4) If you desire to pay off in advance the full amount due, the amount of the refund you are entitled to, if any, will be furnished upon request."

(2) "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and obtain a partial refund of the finance charge if it is \$1 or more. Because of the way the amount of this refund will be figured, the

time when you prepay could increase the ultimate cost of credit under this agreement. (4) If you desire to pay off in advance the full amount due, the amount of the refund you are entitled to, if any, will be furnished upon request.”

(3) “Notice to the buyer: (1) Do not sign this agreement before you read it or if it contains any blank space. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and under certain conditions obtain a partial refund of the finance charge. Because the refund will be figured by the Rule of 78’s, the time when you prepay may affect the ultimate cost of credit under this agreement. (4) If you desire to pay off in advance the full amount due, the amount of the refund you are entitled to, if any, will be furnished upon request.”

(d) Where the contract includes a finance charge which is determined on the precomputed basis and provides for the actuarial method for computing the unearned portion of the finance charge upon prepayment in full, a notice as set forth in paragraph (1), (2), or (3) in at least 10-point bold type if the contract is printed.

(1) “Notice to the buyer: (1) Do not sign this agreement before you read it or if it contains any blank space. (2) You are entitled to a completely filled-in copy of this agreement. (3) Under the law, you have the right to pay off in advance the full amount due and to obtain a partial refund of the finance charge, if any, provided for herein. (4) If you desire to pay off in advance the full amount due, the amount of the refund you are entitled to, if any, will be furnished upon request.”

(2) “Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and obtain a partial refund of the finance charge if it is \$1 or more. (4) If you desire to pay off in advance the full amount due, the amount of the refund you are entitled to, if any, will be furnished upon request.”

(3) “Notice to the buyer: (1) Do not sign this agreement before you read it or if it contains any blank space. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and under certain conditions obtain a partial refund of the finance charge. Because the refund will be figured by the Rule of 78’s, the time when you prepay may affect the ultimate cost of credit under this agreement. (4) If you desire to pay off in advance the full amount due, the amount of the refund you are entitled to, if any, will be furnished upon request.”

(e) Where the contract includes a finance charge which is determined on the simple-interest basis, a notice as set forth in either paragraph (1) or (2) in at least 10-point bold type if the contract is printed.

(1) "Notice to the buyer: (1) Do not sign this agreement before you read it or if it contains any blank space. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time. (4) If you desire to pay off in advance the full amount due, the amount of the refund you are entitled to, if any, will be furnished upon request."

(2) "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time. (4) If you desire to pay off in advance the full amount due, the amount which is outstanding will be furnished upon request."

(f) This section shall remain in effect only until July 1, 1981, and as of such date is repealed.

SEC. 7. Section 1803.2 of the Civil Code, as added by Section 7.5 of Chapter 805 of the Statutes of 1979, is amended to read:

1803.2. Except as provided in Section 1808.3, every retail installment contract shall be contained in a single document which shall contain:

(a) The entire agreement of the parties with respect to the cost and terms of payment for the goods and services, including any promissory notes or any other evidences of indebtedness between the parties relating to the transaction.

(b) (1) At the top of the contract the words "Security Agreement" shall appear in at least 12-point bold type where a security interest in the goods is retained or a security interest on other goods or realty is obtained by the seller as security for the goods or services purchased.

(2) At the top of the contract the words "Retail Installment Contract" shall appear in at least 12-point bold type where a security interest is not retained or obtained by the seller as security for the goods or services purchased.

(3) Any contract for goods or services which provides for a security interest in real property shall also provide the following notices, written in the same language, e.g., Spanish, as used in the contract: (A) "WARNING TO BUYER: IF YOU SIGN THIS CONTRACT, YOU WILL BE PUTTING UP YOUR HOME AS SECURITY. THIS MEANS THAT YOUR HOME COULD BE SOLD WITHOUT YOUR PERMISSION AND WITHOUT ANY COURT ACTION IF YOU MISS ANY PAYMENT AS REQUIRED BY THIS CONTRACT." This notice shall be printed in at least 14-point boldface type, shall be set apart from the rest of the contract by a border, and shall appear directly below the title of the contract. (B) "STOP—BEFORE YOU SIGN, READ THE WARNING AT THE TOP OF THIS CONTRACT!" This notice shall be printed in at least 14-point boldface type and shall appear directly above the space reserved for the signature of the buyer. A security interest created in any contract described in this paragraph which does not provide the notices as required by this paragraph shall be void and

unenforceable.

As used in this subdivision, the term "security interest" refers to a contractual interest in property and not to a mechanic's lien or other interest in property arising by operation of law.

(c) Where the contract includes a finance charge which is determined on the precomputed basis and provides that the unearned portion of the finance charge to be refunded upon full prepayment of the contract is to be determined by a method other than actuarial, a notice in at least 10-point bold type if the contract is printed reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and obtain a partial refund of the finance charge if it is \$1 or more. Because of the way the amount of this refund will be figured, the time when you prepay could increase the ultimate cost of credit under this agreement. (4) If you desire to pay off in advance the full amount due, the amount of the refund you are entitled to, if any, will be furnished upon request."

(d) Where the contract includes a finance charge which is determined on the precomputed basis and provides for the actuarial method for computing the unearned portion of the finance charge upon prepayment in full, a notice in at least 10-point bold type if the contract is printed reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and obtain a partial refund of the finance charge if it is \$1 or more. (4) If you desire to pay off in advance the full amount due, the amount of the refund you are entitled to, if any, will be furnished upon request."

(e) Where the contract includes a finance charge which is determined on the simple-interest basis, a notice in at least 10-point bold type if the contract is printed reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time. (4) If you desire to pay off in advance the full amount due, the amount which is outstanding will be furnished upon request."

(f) This section shall become operative July 1, 1981.

SEC. 8. Section 1803.3 of the Civil Code is amended to read:

1803.3. Except as provided in Article 8 (commencing with Section 1808.1) of this chapter, a contract shall contain the following:

(a) The names of the seller and the buyer, the place of business of the seller, the residence or place of business of the buyer as specified by the buyer and a description of the goods or services sufficient to identify them. Services or multiple items of goods may be described in general terms and may be described in detail

sufficient to identify them in a separate writing.

(b) The cash price of the goods, services and accessories which are the subject matter of the retail installment sale.

(c) The amount of the buyer's downpayment, itemizing the amounts paid in money and in goods and containing a brief description of the goods, if any, traded in. The amount of the downpayment shall not include any administrative finance charge charged, received, or collected by the seller pursuant to subdivision (c) of Section 1805.1 and shown as item (h).

(d) The difference between item (b) and item (c), which is the unpaid balance of cash price.

(e) The amount, if any, included for insurance, specifying the coverages.

(f) The amount, if any, of official fees.

(g) The amount of the unpaid balance, which is the sum of items (d), (e), and (f).

(h) The amount, if any, of an administrative finance charge.

(i) The amount financed, which is the difference between item (g) and item (h).

(j) The finance charge (1) expressed as the annual percentage rate as defined in Regulation Z and (2) expressed in dollars.

(k) The number, amount, and due dates or periods of payments scheduled to repay the indebtedness and the sum of such payments.

(l) The deferred payment price, which is the sum of the amounts determined in items (b), (e), (f) and (j).

(m) Any "balloon payments," as described in Section 1807.3.

(n) (1) Where the contract includes a finance charge determined on the precomputed basis, an identification of the method of computing the unearned portion of the finance charge in the event of prepayment in full of the buyer's obligation and a statement of the amount or method of computation of any charge that may be deducted from the amount of any such unearned finance charge in computing the amount that will be credited to the obligation or refunded to the buyer. Reference to the Rule of 78's, the sum of the digits, the sum of the periodic time balances or the actuarial method shall constitute a sufficient identification of the method of computing the unearned portion of the finance charge.

(2) Where the contract includes a finance charge which is determined on the simple-interest basis but provides for a minimum finance charge in the event of prepayment in full, disclosure of that fact and the amount of the minimum finance charge or its method of calculation.

The items need not be stated in the sequence or order set forth above; additional items may be included to explain the computations made in determining the amount to be paid by the buyer. If the finance charge or any portion thereof is calculated on the 365-day basis, the amount of the finance charge shown pursuant to item (j) shall be that amount which will be incurred by the buyer if all payments are received by the seller on their respective due dates.

SEC. 9. Section 1803.6 of the Civil Code is amended to read:

1803.6. A contract may provide that for each installment in default for a period of not less than 10 days the buyer shall pay a delinquency charge in an amount not in excess of 5 percent of such installment or five dollars (\$5), whichever is less, but a minimum charge of one dollar (\$1) may be made. Only one such delinquency charge may be collected on any such installment regardless of the period during which it remains in default. Payments timely received by the seller under a written extension or deferral agreement shall not be subject to any delinquency charge. The contract may also provide for payment of any actual and reasonable costs of collection occasioned by removal of the goods from the state without written permission of the holder, or by the failure of the buyer to notify the holder of any change of residence, or by the failure of the buyer to communicate with the holder for a period of 45 days after any default in making payments due under the contract.

SEC. 10. Section 1804.3 of the Civil Code is amended to read:

1804.3. (a) No contract other than one for services shall provide for a security interest in any goods theretofore fully paid for or which have not been sold by the seller.

(b) Any contract for goods which provides for a security interest in real property where the primary goods sold are not to be attached to the real property shall be a violation of this chapter and subject to the penalties set forth in Article 12.2 (commencing with Section 1812.6).

(c) Any contract for goods or services, entered into on or after April 1, 1980, which provides for a security interest in real property shall also provide the following notices, written in the same language, e.g., Spanish, as used in the contract:

(1) Either

(A) "WARNING TO BUYER

**IF YOU SIGN THIS CONTRACT, YOU WILL BE PUTTING UP YOUR HOME AS SECURITY. THIS MEANS THAT YOUR HOME COULD BE SOLD WITHOUT YOUR PERMISSION AND WITHOUT ANY COURT ACTION IF YOU MISS ANY PAYMENT AS REQUIRED BY THIS CONTRACT."** or

**(B) "WARNING TO BUYER: IF YOU SIGN THIS CONTRACT, YOU WILL BE PUTTING UP YOUR HOME AS SECURITY. THIS MEANS THAT YOUR HOME COULD BE SOLD WITHOUT YOUR PERMISSION AND WITHOUT ANY COURT ACTION IF YOU MISS ANY PAYMENT AS REQUIRED BY THIS CONTRACT."**

One of the above notices shall be printed in at least 14-point boldface type, shall be set apart from the rest of the contract by a border, and shall appear either directly above or directly below the title of the contract.

(2) **"STOP—BEFORE YOU SIGN, READ THE WARNING AT THE TOP OF THIS CONTRACT!"**

This notice shall be printed in at least 14-point boldface type and

shall appear directly above the space reserved for the signature of the buyer.

(d) A security interest created in any contract described in subdivision (c) which does not provide the notices as required by this section shall be void and unenforceable.

(e) This section shall remain in effect only until July 1, 1981, and as of such date is repealed.

SEC. 11. Section 1804.3 is added to the Civil Code, to read:

1804.3. (a) No contract other than one for services shall provide for a security interest in any goods theretofore fully paid for or which have not been sold by the seller.

(b) Any contract for goods which provides for a security interest in real property where the primary goods sold are not to be attached to the real property shall be a violation of this chapter and subject to the penalties set forth in Article 12.2 (commencing with Section 1812.6).

(c) This section shall become operative July 1, 1981.

SEC. 12. Section 1805.1 of the Civil Code is amended to read:

1805.1. (a) The dollar amount of the finance charge shown pursuant to item (j) of Section 1803.3 shall not exceed the greater of:

(1) Five-sixths of 1 percent on so much of the unpaid balance as does not exceed one thousand dollars (\$1,000) plus an amount which shall not exceed two-thirds of 1 percent of that portion of the unpaid balance which exceeds one thousand dollars (\$1,000), multiplied by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment; or

(2) If the finance charge is determined by the precomputed basis, twelve dollars (\$12) but if the due date of the last installment of the contract is eight months or less after its effective date, ten dollars (\$10); or

(3) If the finance charge, or a portion thereof, is determined by the simple-interest basis:

(A) Ten dollars (\$10) if the unpaid balance does not exceed five hundred dollars (\$500), (B) twenty-five dollars (\$25) if the unpaid balance exceeds five hundred dollars (\$500), but does not exceed one thousand dollars (\$1,000), (C) fifty dollars (\$50) if the unpaid balance exceeds one thousand dollars (\$1,000), but does not exceed two thousand dollars (\$2,000), or (D) seventy-five dollars (\$75) if the unpaid balance exceeds two thousand dollars (\$2,000).

(b) The holder of the contract shall not charge, collect or receive a finance charge which exceeds the dollar amount shown pursuant to item (j) of Section 1803.3, except to the extent caused by (1) the holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled, whether or not the parties enter into an agreement pursuant to Section 1807.1, (2) the use of estimations in the providing of the disclosures required by this chapter to the extent

permitted by Regulation Z, or (3) as permitted by Section 1805.8.

(c) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds five thousand dollars (\$5,000), the holder of the contract may, in lieu of its right to a minimum finance charge under item (3) of subdivision (a), charge, receive, or collect on the date of the contract an administrative finance charge not to exceed seventy-five dollars (\$75), provided that the sum of any such administrative finance charge and the portion of the finance charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by item (1) of subdivision (a). Any administrative finance charge which is charged, received or collected by a holder shall be deemed a finance charge earned on the date of the contract.

SEC. 13. Section 1805.1 of the Civil Code is amended to read:

1805.1. (a) The dollar amount of the finance charge shown pursuant to item (j) of Section 1803.3 shall not exceed the greater of:

(1) One percent of the unpaid balance on so much of the unpaid balance as does not exceed one thousand dollars (\$1,000) plus an amount which shall not exceed two-thirds of 1 percent of that portion of the unpaid balance which exceeds one thousand dollars (\$1,000), multiplied by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment; or

(2) If the finance charge is determined by the precomputed basis, twelve dollars (\$12) but if the due date of the last installment of the contract is eight months or less after its effective date, ten dollars (\$10); or

(3) If the finance charge, or a portion thereof, is determined by the simple-interest basis:

(A) Ten dollars (\$10) if the unpaid balance does not exceed five hundred dollars (\$500), (B) twenty-five dollars (\$25) if the unpaid balance exceeds five hundred dollars (\$500), but does not exceed one thousand dollars (\$1,000), (C) fifty dollars (\$50) if the unpaid balance exceeds one thousand dollars (\$1,000), but does not exceed two thousand dollars (\$2,000), or (D) seventy-five dollars (\$75) if the unpaid balance exceeds two thousand dollars (\$2,000).

(b) The holder of the contract shall not charge, collect or receive a finance charge which exceeds the dollar amount shown pursuant to item (j) of Section 1803.3, except to the extent caused by (1) the holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled, whether or not the parties enter into an agreement pursuant to Section 1807.1, (2) the use of estimations in the providing of the disclosures required by this chapter to the extent permitted by Regulation Z, or (3) as permitted by Section 1805.8.

(c) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds

five thousand dollars (\$5,000), the holder of the contract may, in lieu of its right to a minimum finance charge under item (3) of subdivision (a), charge, receive, or collect on the date of the contract an administrative finance charge not to exceed seventy-five dollars (\$75), provided that the sum of any such administrative finance charge and the portion of the finance charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by item (1) of subdivision (a). Any administrative finance charge which is charged, received or collected by a holder shall be deemed a finance charge earned on the date of the contract.

This section shall remain in effect only until the first day of the first month following the second anniversary date of the effective date of the 1980 amendments to this section, and as of that date is repealed.

SEC. 14. Section 1805.1 is added to the Civil Code, to read:

1805.1. (a) The dollar amount of the finance charge shown pursuant to item (j) of Section 1803.3 shall not exceed the greater of:

(1) Five-sixths of 1 percent on so much of the unpaid balance as does not exceed one thousand dollars (\$1,000) plus an amount which shall not exceed two-thirds of 1 percent of that portion of the unpaid balance which exceeds one thousand dollars (\$1,000), multiplied by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment; or

(2) If the finance charge is determined by the precomputed basis, twelve dollars (\$12) but if the due date of the last installment of the contract is eight months or less after its effective date, ten dollars (\$10); or

(3) If the finance charge, or a portion thereof, is determined by the simple-interest basis:

(A) Ten dollars (\$10) if the unpaid balance does not exceed five hundred dollars (\$500), (B) twenty-five dollars (\$25) if the unpaid balance exceeds five hundred dollars (\$500), but does not exceed one thousand dollars (\$1,000), (C) fifty dollars (\$50) if the unpaid balance exceeds one thousand dollars (\$1,000), but does not exceed two thousand dollars (\$2,000), or (D) seventy-five dollars (\$75) if the unpaid balance exceeds two thousand dollars (\$2,000).

(b) The holder of the contract shall not charge, collect or receive a finance charge which exceeds the dollar amount shown pursuant to item (j) of Section 1803.3, except to the extent caused by (1) the holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled, whether or not the parties enter into an agreement pursuant to Section 1807.1, (2) the use of estimations in the providing of the disclosures required by this chapter to the extent permitted by Regulation Z, or (3) as permitted by Section 1805.8.

(c) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds five thousand dollars (\$5,000), the holder of the contract may, in lieu

of its right to a minimum finance charge under item (3) of subdivision (a), charge, receive, or collect on the date of the contract an administrative finance charge not to exceed seventy-five dollars (\$75), provided that the sum of any such administrative finance charge and the portion of the finance charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by item (1) of subdivision (a). Any administrative finance charge which is charged, received, or collected by a holder shall be deemed a finance charge earned on the date of the contract.

This section shall become operative on the first day of the first month following the second anniversary date of the effective date of the act which enacted this section.

SEC. 15. Section 1805.6 of the Civil Code is amended to read:

1805.6. (a) Notwithstanding the provisions of any contract to the contrary, except as provided in subdivision (b) or (c), no retail seller shall assess any finance charge against the unpaid balance for goods purchased under a retail installment contract until the goods are in the buyer's possession.

(b) A finance charge may be assessed against the unpaid balance for such undelivered goods, as follows:

(1) From the date when such goods are available for pickup by the buyer and the buyer is notified of their availability, or

(2) From the date of purchase, when such goods are delivered or available for pickup by the buyer within 10 days of the date of purchase.

(c) In the case of a home improvement contract as defined in Section 7151.2 of the Business and Professions Code, a finance charge may be assessed against the unpaid balance from the approximate date of commencement of the work as set forth in the home improvement contract.

SEC. 16. Section 1806.3 of the Civil Code is amended to read:

1806.3. (a) Notwithstanding any provision of a contract to the contrary, the buyer may pay at any time before maturity the entire indebtedness evidenced by the contract without penalty. In the event of prepayment in full:

(1) If the finance charge was determined on the precomputed basis, the amount required to repay the contract shall be the outstanding contract balance as of that date, provided, however, that the buyer shall be entitled to a refund credit in the amount of the unearned portion of the finance charge, except as provided in paragraph (3). The amount of the unearned portion of the finance charge shall be at least as great a proportion of the finance charge, or if the contract has been extended, deferred or refinanced, of the additional charge therefor, as the sum of the periodic monthly time balances payable more than 15 days after the date of prepayment bears to the sum of all the periodic monthly time balances under the schedule of installments in the contract or, if the contract has been extended, deferred or refinanced, as so extended, deferred or refinanced. Where the amount of the refund credit is less than one

dollar (\$1), no refund credit need be made by the holder. Any refund credit in the amount of one dollar (\$1) or more may be made in cash or credited to the outstanding obligations of the buyer under the contract.

(2) If the finance charge or a portion thereof was determined on the simple-interest basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, including any earned finance charges which are unpaid as of that date and, if applicable, the amount provided in paragraph (3), and provided further that in cases where the finance charge or a portion thereof is determined on the 360-day basis, the payments theretofore received will be assumed to have been received on their respective due dates regardless of the actual dates on which such payments were received.

(3) Where the minimum finance charge provided by paragraph (2) or paragraph (3) of subdivision (a) of Section 1805.1, if either is applicable, is greater than the earned finance charge as of the date of prepayment, the holder shall be additionally entitled to the difference.

(b) Notwithstanding any provision of a contract to the contrary, whenever the indebtedness created by any retail installment contract is satisfied prior to its maturity through surrender of the collateral, repossession of the collateral, redemption of the collateral after repossession, or any judgment, the outstanding obligation of the buyer shall be determined as provided in subdivision (a); provided further that the buyer's outstanding obligation shall be computed by the holder as of the date the holder recovers the value of the collateral through disposition thereof or judgment is entered or, if the holder elects to keep the collateral in satisfaction of the buyer's indebtedness, as of the date the holder takes possession of the collateral.

(c) This section does not preclude the collection or retention by the holder of any delinquency charge made pursuant to Section 1803.6.

SEC. 17. Section 1807.1 of the Civil Code is amended to read:

1807.1. (a) The holder of a retail installment contract may, upon agreement with the buyer, extend the scheduled due date or defer the scheduled payment of all or of any part of any installment or installments payable thereunder. No charge shall be made for any such extension or deferment unless the agreement for such extension or deferment is in writing and signed by the parties thereto.

(b) Where the contract includes a finance charge determined on the precomputed basis, the holder may charge and contract for the payment of an extension or deferral agreement charge by the buyer and collect and receive the same, but such charge may not exceed an amount equal to 1 percent per month simple interest on the amount of the installment or installments, or part thereof, extended or deferred for the period of extension or deferral. Such period shall not exceed the period from the date when such extended or deferred

installment or installments, or part thereof, would have been payable in the absence of such extension or deferral, to the date when such installment or installments, or part thereof, are made payable under the agreement of extension or deferment; except that a minimum charge of one dollar (\$1) for the period of extension or deferral may be made in any case where the extension or deferral agreement charge, when computed at such rate, amounts to less than one dollar (\$1).

(c) Where the contract includes a finance charge determined on the simple-interest basis, the holder may charge and contract for the payment of an extension or deferral agreement charge by the buyer and collect and receive the same, but the charge for the extension or deferral agreement may not exceed the lesser of twenty-five dollars (\$25) or 10 percent of the then unpaid balance of the contract. Such charge shall be in addition to any finance charges which accrue because such extended or deferred payments are received at a time other than as originally scheduled.

(d) An extension or deferral agreement may also provide for the payment by the buyer of the additional cost to the holder of the contract of premiums for continuing in force, until the end of such period of extension or deferral, any insurance coverages provided for in the contract, subject to the provisions of Section 1803.5.

SEC. 18. Section 1808.6 of the Civil Code is amended to read:

1808.6. The minimum finance charge as provided in either paragraph (2) or paragraph (3) of subdivision (a) of Section 1805.1 may be used but once in any series of add-on transactions.

SEC. 18.5. Section 2924c of the Civil Code is amended to read:

2924c. (a) Whenever all or a portion of the principal sum of any obligation secured by deed of trust or mortgage on real property hereafter executed has, prior to the maturity date fixed in such obligation, become due or been declared due by reason of default in payment of interest or of any installment of principal, or by reason of failure of trustor or mortgagor to pay, in accordance with the terms of such obligation or of such deed of trust or mortgage, taxes, assessments, premiums for insurance or advances made by beneficiary or mortgagee in accordance with the terms of such obligation or of such deed of trust or mortgage, the trustor or mortgagor or his successor in interest in the mortgaged or trust property or any part thereof, or any beneficiary under a subordinate deed of trust or any other person having a subordinate lien or encumbrance of record thereon, at any time within three months of the recording of the notice of default under such deed of trust or mortgage, if the power of sale therein is to be exercised, or, otherwise at any time prior to entry of the decree of foreclosure, may pay to the beneficiary or the mortgagee or their successors in interest, respectively, the entire amount then due under the terms of such deed of trust or mortgage and the obligation secured thereby (including costs and expenses actually incurred in enforcing the terms of such obligation, deed of trust or mortgage, and trustee's or

attorney's fees actually incurred not exceeding one hundred dollars (\$100) in case of a mortgage and fifty dollars (\$50) in case of a deed of trust or one-half of 1 percent of the entire unpaid principal sum secured, whichever is greater) other than such portion of principal as would not then be due had no default occurred, and thereby cure the default theretofore existing, and thereupon, all proceedings theretofore had or instituted shall be dismissed or discontinued and the obligation and deed of trust or mortgage shall be reinstated and shall be and remain in force and effect, the same as if no such acceleration had occurred. The provisions of this section shall not apply to bonds or other evidences of indebtedness authorized or permitted to be issued by the Commissioner of Corporations or made by a public utility subject to the provisions of the Public Utilities Code.

(b) (1) The notice, of any default described in this section, recorded pursuant to Section 2924, and mailed to any person pursuant to Section 2924b, shall begin with the following statement, printed or typed thereon:

“IMPORTANT NOTICE [14-point boldface type if printed or in capital letters if typed]

IF YOUR PROPERTY IS IN FORECLOSURE BECAUSE YOU ARE BEHIND IN YOUR PAYMENTS, IT MAY BE SOLD WITHOUT ANY COURT ACTION, [14-point boldface type if printed or in capital letters if typed] and you may have the legal right to bring your account in good standing by paying all of your past due payments plus permitted costs and expenses within three months from the date this notice of default was recorded.

This amount is \_\_\_\_\_ as of \_\_\_\_\_ ,

(Date)

and will increase until your account becomes current. You may not have to pay the entire unpaid portion of your account, even though full payment was demanded, but you must pay the amount stated above.

After three months from the date of recordation of this document (which date of recordation appears hereon), unless the obligation being foreclosed upon permits a longer period, you have only the legal right to stop the foreclosure by paying the entire amount demanded by your creditor.

To find out the amount you must pay, or to arrange for payment to stop the foreclosure, or if your property is in foreclosure for any other reason, contact:

\_\_\_\_\_  
(Name of beneficiary or mortgagee)

\_\_\_\_\_  
(Mailing address)

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(Telephone)

If you have any questions, you should contact a lawyer or the government agency which may have insured your loan.

Remember, **YOU MAY LOSE LEGAL RIGHTS IF YOU DO NOT TAKE PROMPT ACTION.** [14-point boldface type if printed or in capital letters if typed]"

Unless otherwise specified, the notice, if printed, shall appear in at least 12-point boldface type.

If the obligation secured by the deed of trust or mortgage is a contract or agreement described in paragraph (1) or paragraph (4) of subdivision (a) of Section 1632, the notice required herein shall be in Spanish if the trustor requested a Spanish language translation of the contract or agreement pursuant to Section 1632. If the obligation secured by the deed of trust or mortgage is contained in a home improvement contract, as defined in Sections 7151.2 and 7159 of the Business and Professions Code, which is subject to the provisions of Title 2 (commencing with Section 1801), the seller shall specify on the contract whether or not the contract was principally negotiated in Spanish and if the contract was principally negotiated in Spanish, the notice required herein shall be in Spanish. No assignee of such contract or person authorized to record the notice of default shall incur any obligation or liability for failing to mail a notice in Spanish unless Spanish is specified in the contract or such assignee or person has actual knowledge that the secured obligation was principally negotiated in Spanish. Unless specified in writing to the contrary, a copy of the notice required by subdivision (3) of Section 2924b shall be in English.

(2) Any failure to comply with the provisions of this subdivision shall not affect the validity of a sale in favor of a bona fide purchaser or the rights of an encumbrancer for value and without notice.

SEC. 19. Section 2981 of the Civil Code is amended to read:

2981. As used in this chapter, unless the context otherwise requires:

(a) "Conditional sale contract" means:

(1) Any contract for the sale of a motor vehicle between a buyer and a seller, with or without accessories, under which possession is delivered to the buyer and either (A) the title vests in the buyer thereafter only upon the payment of all or a part of the price, or the performance of any other condition, or (B) a lien on the property is to vest in the seller as security for the payment of part or all of the price, or for the performance of any other condition, or

(2) Any contract for the bailment of a motor vehicle between a buyer and a seller, with or without accessories, by which the bailee or lessee agrees to pay as compensation for use a sum substantially equivalent to or in excess of the aggregate value of the vehicle and its accessories, if any, at the time the contract is executed, and by

which it is agreed that the bailee or lessee will become, or for no other or for a nominal consideration has the option of becoming, the owner of the vehicle upon full compliance with the terms of the contract.

(b) "Seller" means a person engaged in the business of selling or leasing motor vehicles under conditional sale contracts.

(c) "Buyer" means the person who buys or hires a motor vehicle under a conditional sale contract.

(d) "Person" includes an individual, company, firm, association, partnership, trust, corporation, or other legal entity.

(e) "Cash price" means the amount for which the seller would sell and transfer to the buyer unqualified title to the motor vehicle described in the conditional sale contract, if the property were sold for cash at the seller's place of business on the date the contract is executed, and may include taxes to the extent imposed on the cash sale and the cash price of accessories or services related to the sale such as delivery, installation, alterations, modifications, and improvements, or a service contract.

(f) "Downpayment" means any payment which the buyer pays or agrees to pay to the seller in cash or property value or money's worth at or prior to delivery by the seller to the buyer of the motor vehicle described in the conditional sale contract. The term does not include any administrative finance charge charged, received or collected by the seller pursuant to paragraph (3) of subdivision (c) of Section 2982 and shown under paragraph 11 of subdivision (a) of Section 2982.

(g) "Unpaid balance" means the difference between (e) and (f), plus all insurance premiums (except for credit life or disability insurance when the amount thereof is included in the finance charge), which are included in the contract balance, and the total amount paid or to be paid (1) to any public officer in connection with the transaction, and (2) for license, certificate of title, and registration fees imposed by law, the amount of any city, county, or city and county imposed fee or tax for a mobilehome, the amount of any mobilehome escrow fee, the amount of the state fee for issuance of a certificate of compliance or certificate of waiver pursuant to Section 9889.56 of the Business and Professions Code and the amount charged by the seller for documentary preparation.

(h) "Finance charge" means any amount which the buyer agrees to pay to the seller in excess of the unpaid balance. The term shall not include delinquency charges or collection costs and fees as provided by subdivision (d) of Section 2982, extension or deferral agreement charges as provided by Section 2982.3, or amounts for insurance, repairs to or preservation of the motor vehicle, or preservation of the security interest therein advanced by the holder under the terms of the contract.

(i) "Total of payments" or "contract balance" means the amount unpaid under the conditional sale contract, which the buyer agrees to pay in installments to the seller as originally provided therein, and shall not include amounts for which the buyer may later become

obligated under the terms of the contract in connection with insurance, repairs to or preservation of the motor vehicle, preservation of the security interest therein, or otherwise. Either term may be used in lieu of the other in complying with this chapter.

(j) "Motor vehicle" means any vehicle required to be registered under the Vehicle Code which is bought for use primarily for personal or family purposes, and does not mean any vehicle which is bought for use primarily for business or commercial purposes.

(k) "Purchase order" means a sales order, car reservation, statement of transaction or any other such instrument used in the conditional sale of a motor vehicle pending execution of a conditional sale contract. The purchase order shall conform to the disclosure requirements of paragraphs 1 to 9, inclusive, and paragraphs 12 and 13 of subdivision (a) of Section 2982 and Section 2984.1 and the provisions of subdivisions (f) and (g) of Section 2982 shall be applicable thereto.

(l) "Regulation Z" means any rule, regulation or interpretation promulgated by the Board of Governors of the Federal Reserve System ("Board") under the federal Truth in Lending Act, as amended (15 U.S.C. 1601, et seq.), and any interpretation or approval issued by an official or employee of the Federal Reserve System duly authorized by the board under the Truth in Lending Act, as amended, to issue such interpretations or approvals.

(m) "Simple-interest basis" means the determination of a finance charge, other than an administrative finance charge, by applying a constant rate to the unpaid balance as it changes from time to time either:

(1) Calculated on the basis of a 365-day year and actual days elapsed (although the seller may, but need not, adjust its calculations to account for leap years); reference in this chapter to the "365-day basis" shall mean this method of determining the finance charge, or

(2) For contracts entered into prior to January 1, 1988, calculated on the basis of a 360-day year consisting of 12 months of 30 days each and on the assumption that all payments will be received by the seller on their respective due dates; reference in this chapter to the "360-day basis" shall mean this method of determining the finance charge.

(n) "Precomputed basis" means the determination of a finance charge by multiplying the original unpaid balance of the contract by a rate and multiplying that product by the number of payment periods elapsing between the date of the contract and the date of the last scheduled payment.

(o) "Service contract" means a contract in writing to perform, over a fixed period of time or for a specified duration, services relating to the maintenance or repair, or both, of the motor vehicle described in the conditional sale contract.

SEC. 20. Section 2981.8 of the Civil Code is amended to read:

2981.8. No contract shall provide for a finance charge which is determined in part by the precomputed basis and in part by the

simple-interest basis except for any finance charge permitted by subdivisions (a) and (c) of Section 2982.8.

SEC. 21. Section 2982 of the Civil Code, as amended by Section 1.5 of Chapter 1160 of the Statutes of 1979, is amended to read:

2982. (a) Every conditional sale contract for the sale of a motor vehicle, with or without accessories, shall be in writing and, if printed, shall be printed in type no smaller than 6-point, and shall contain in a single document all of the agreements of the buyer and seller with respect to the total cost and the terms of payment for the motor vehicle, including any promissory notes or any other evidences of indebtedness. The conditional sale contract or a purchase order shall be signed by the buyer or his authorized representative and by the seller or its authorized representative, and an exact copy thereof shall be furnished the buyer by the seller at the time the buyer and the seller have signed the contract or purchase order. No motor vehicle shall be delivered under this chapter until the seller delivers to the buyer a fully executed copy of the conditional sale contract or purchase order and any vehicle purchase proposal and any credit statement which the seller has required or requested the buyer to sign, and which he has signed, during the contract negotiations. The seller shall not obtain the signature of the buyer to a contract when it contains blank spaces to be filled in after it has been signed. Every conditional sale contract shall contain, although not necessarily in the sequence or order set forth below, the following separate items:

1. The cash price of the motor vehicle and of other items described in subdivision (e) of Section 2981 which are the subject of the conditional sale contract.

2. The amount of the buyer's downpayment, and whether made in cash or represented by the net agreed value of described property traded in, or both, together with a statement of the respective amounts credited for cash and for such property, but excluding any administrative finance charge shown in item 11.

3. The unpaid balance of cash price, which is the difference between items 1 and 2.

4. The cost to the buyer of any insurance, the premium for which is included in the contract balance. Any such cost for credit life or disability insurance may be included in the finance charge if the amount thereof is separately stated on the face of the contract.

5. The amounts, if any, paid or to be paid to any public officer in connection with the transaction and for license, certificate of title, and registration fees imposed by law.

6. The amount of any city, county, or city and county imposed fee or tax for a mobilehome.

7. The amount of any mobilehome escrow fee.

8. The amount of the state fee for issuance of a certificate of compliance or certificate of waiver pursuant to Section 9889.56 of the Business and Professions Code.

9. The amount, if any, charged by the seller for documentary

preparation. If a seller charges a buyer a documentary preparation charge, then the contract shall contain a notice advising the buyer that such charge is not a governmental fee.

10. The amount of the unpaid balance, which is the sum of items 3, 4, 5, 6, 7, 8, and 9.

11. The amount, if any, of an administrative finance charge.

12. The amount financed, which is the difference between items 10 and 11.

13. The finance charge (A) expressed as the annual percentage rate as defined in Regulation Z and (B) expressed in dollars.

14. The number, amount, and due dates or periods of payments scheduled to repay the indebtedness and the sum of such payments.

15. The names and addresses of all persons to whom the notice required under Section 2983.2 and permitted under Sections 2983.5 and 2984 of this code is to be sent.

16. (A) Where the contract includes a finance charge determined on the precomputed basis, an identification of the method of computing the unearned portion of the finance charge in the event of prepayment in full of the buyer's obligation and a statement of the amount or method of computation of any charge that may be deducted from the amount of any such unearned finance charge in computing the amount that will be credited to the obligation or refunded to the buyer. Reference to the Rule of 78's, the sum of the digits, the sum of the periodic time balances or the actuarial method shall constitute a sufficient identification of the method of computing the unearned portion of the finance charge.

(B) Where the contract includes a finance charge which is determined on the simple-interest basis but provides for a minimum finance charge in the event of prepayment in full, a statement of that fact and the amount of the minimum finance charge or its method of calculation.

17. (A) Where the contract includes a finance charge which is determined on the precomputed basis and provides that the unearned portion of the finance charge to be refunded upon full prepayment of the contract is to be determined by a method other than actuarial, a notice as set forth in subparagraph (i), (ii) or (iii) in at least 8-point bold type if the contract is printed.

(i) "Notice to the buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) Under the law, you have the right to pay off in advance the full amount due and under certain conditions to obtain a partial refund of the finance charge. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(ii) "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can

prepay the full amount due under this agreement at any time and obtain a partial refund of the finance charge if it is \$1 or more. Because of the way the amount of this refund will be figured, the time when you prepay could increase the ultimate cost of credit under this agreement. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement.”

(iii) “Notice to the buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and under certain conditions obtain a partial refund of the finance charge. Because the refund will be figured by the Rule of 78’s, the time when you prepay may affect the ultimate cost of credit under this agreement. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement.”

(B) Where the contract includes a finance charge which is determined on the precomputed basis and provides for the actuarial method for computing the unearned portion of the finance charge upon prepayment in full, a notice as set forth in subparagraph (i), (ii), or (iii) in at least 8-point bold type if the contract is printed.

(i) “Notice to the buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) Under the law, you have the right to pay off in advance the full amount due and under certain conditions to obtain a partial refund of the finance charge. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement.”

(ii) “Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and obtain a partial refund of the finance charge if it is \$1 or more. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement.”

(iii) “Notice to the buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and under certain conditions obtain a partial refund of the finance charge. Because the refund will be figured by the Rule of 78’s, the time when you prepay may affect the ultimate cost of credit under

this agreement. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement.”

(C) Where the contract includes a finance charge which is determined on the simple-interest basis, a notice as set forth in either subparagraph (i) or (ii) in at least 8-point bold type if the contract is printed.

(i) “Notice to the buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement.”

(ii) “Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement.”

18. A notice to the buyer, in writing, and, if printed, in type no smaller than 8-point, that complaints concerning unfair or deceptive practices or methods by the seller shall be referred to the seller and, if the complaint is not resolved, may be referred to the Department of Motor Vehicles, Division of Compliance, 2570 24th Street, Sacramento, 95818.

Additional items may be included to explain the computations made in determining the amount to be paid by the buyer. If the finance charge or any portion thereof is calculated on the 365-day basis, the amount of the finance charge shown pursuant to item 13 shall be the amount which will be incurred by the buyer if all payments are received by the seller on their respective due dates.

(b) If any charge for insurance (other than for credit life or disability) is included in the contract balance and disbursement of any part thereof be made more than one year after the date of the conditional sale contract, any finance charge on the amount to be disbursed after one year shall be computed from the month the disbursement is to be made to the due date of the last installment under the conditional sale contract.

(c) (1) The dollar amount of the finance charge shown pursuant to item 13 of subdivision (a) shall not exceed the greater of:

(A) One percent of the unpaid balance multiplied by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment; or

(B) If the finance charge is determined by the precomputed basis, twenty-five dollars (\$25); or

(C) If the finance charge or a portion thereof is determined by the simple-interest basis:

(i) Twenty-five dollars (\$25) if the unpaid balance does not exceed one thousand dollars (\$1,000), (ii) fifty dollars (\$50) if the unpaid balance exceeds one thousand dollars (\$1,000) but does not exceed two thousand dollars (\$2,000), or (iii) seventy-five dollars (\$75) if the unpaid balance exceeds two thousand dollars (\$2,000).

(2) The holder of the contract shall not charge, collect or receive a finance charge which exceeds the dollar amount shown pursuant to item 13 of subdivision (a), except to the extent caused by (A) the holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled whether or not the parties enter into an agreement pursuant to Section 2982.3, (B) the use of estimations in the providing of the disclosures required by this chapter to the extent permitted by Regulation Z, or (C) as permitted by subdivisions (a) and (c) of Section 2982.8.

(3) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds five thousand dollars (\$5,000), the holder of the contract may, in lieu of its right to a minimum finance charge under subparagraph (C) of paragraph (1), charge, receive or collect on the date of the contract an administrative finance charge not to exceed seventy-five dollars (\$75) provided that the sum of any such administrative finance charge and the portion of the finance charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by subparagraph (A) of paragraph (1). Any administrative finance charge which is charged, received or collected by a holder shall be deemed a finance charge earned on the date of the contract.

(d) The contract may provide that for each installment in default for a period of not less than 10 days the buyer shall pay a delinquency charge in an amount not to exceed in the aggregate 5 percent of the installment, which amount may be collected only once on any installment regardless of the period during which it remains in default. Payments timely received by the seller under a written extension or deferral agreement shall not be subject to any delinquency charge. The contract may provide for reasonable collection costs and fees in the event of delinquency.

(e) Notwithstanding any provision of a contract to the contrary, the buyer may pay at any time before maturity the entire indebtedness evidenced by the contract without penalty. In the event of prepayment in full:

(1) If the finance charge was determined on the precomputed basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, provided, however, that

the buyer shall be entitled to a refund credit in the amount of the unearned portion of the finance charge, except as provided in paragraphs (3) and (4). The amount of the unearned portion of the finance charge shall be at least as great a proportion of the finance charge, or if the contract has been extended, deferred or refinanced, of the additional charge therefor, as the sum of the periodic monthly time balances payable more than 15 days after the date of prepayment bears to the sum of all the periodic monthly time balances under the schedule of installments in the contract or, if the contract has been extended, deferred or refinanced, as so extended, deferred or refinanced. Where the amount of the refund credit is less than one dollar (\$1), no refund credit need be made by the holder. Any refund credit in the amount of one dollar (\$1) or more may be made in cash or credited to the outstanding obligations of the buyer under the contract.

(2) If the finance charge or a portion thereof was determined on the simple-interest basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, including any earned finance charges which are unpaid as of that date and, if applicable, the amount provided in paragraph (3), and provided further that in cases where a finance charge is determined on the 360-day basis, the payments theretofore received will be assumed to have been received on their respective due dates regardless of the actual dates on which such payments were received.

(3) Where the minimum finance charge provided by subparagraph (B) or subparagraph (C) of paragraph (1) of subdivision (c), if either is applicable, is greater than the earned finance charge as of the date of prepayment, the holder shall be additionally entitled to the difference.

(4) The provisions of this subdivision shall not impair the right of the seller or the seller's assignee to receive delinquency charges on delinquent installments and reasonable costs and fees as provided in subdivision (d) of this section or extension or deferral agreement charges as provided in Section 2982.3.

(5) Notwithstanding any provision of a contract to the contrary, whenever the indebtedness created by any contract is satisfied prior to its maturity through surrender of the motor vehicle, repossession of the motor vehicle, redemption of the motor vehicle after repossession, or any judgment, the outstanding obligation of the buyer shall be determined as provided in paragraph (1) or (2); provided further that the buyer's outstanding obligation shall be computed by the holder as of the date the holder recovers the value of the motor vehicle through disposition thereof or judgment is entered or, if the holder elects to keep the motor vehicle in satisfaction of the buyer's indebtedness, as of the date the holder takes possession of the motor vehicle.

(f) Notwithstanding any other provision of this chapter to the contrary, in the event any required downpayment on which no finance charge is imposed is to be made by the buyer to the seller

on a conditional sale contract after the date of such contract but prior to the date of the second payment otherwise scheduled, the amount of such payment may be shown in such contract as a deferred portion of the cash downpayment or, if the finance charge is determined on the precomputed basis, as a deduction from the amount of the unpaid balance, and shall be included in the total of payments.

(g) Notwithstanding any other provision of this chapter to the contrary, any information required to be disclosed in a conditional sale contract under this chapter may be disclosed in any manner, method, or terminology required or permitted under Regulation Z, as in effect at the time such disclosure is made. Nothing contained in this chapter shall be deemed to prohibit the disclosure in such contract of additional information required or permitted under Regulation Z, as in effect at the time such disclosure is made.

(h) If the requirements of this section are otherwise met, the preparation and use of a separate document for agreements governing the ownership of the towbar, wheels, wheel hubs, and axles and for escrow instructions under Section 11950 of the Vehicle Code, relating to the sale of mobilehomes, shall not violate the single-document requirement of subdivision (a).

Without such an agreement governing the ownership of the towbar, wheels, wheel hubs, and axles, no dealer or transporter shall remove or cause to be removed any towbar, wheel, wheel hub, or axle from any mobilehome. Any price quoted for any mobilehome in a conditional sale contract, purchase order, or security agreement pursuant to this section shall state whether such price includes or excludes the cost of the towbar, wheels, wheel hubs, and axles. If such price does not include the towbar, wheels, wheel hubs, or axles, it shall show a deduction for the cost of such parts not included.

(i) This section shall remain in effect only until July 1, 1981, and as of such date is repealed.

SEC. 22. Section 2982 of the Civil Code, as added by Section 1.6 of Chapter 1160 of the Statutes of 1979, is amended to read:

2982. (a) Every conditional sale contract for the sale of a motor vehicle, with or without accessories, shall be in writing and, if printed, shall be printed in type no smaller than 6-point, and shall contain in a single document all of the agreements of the buyer and seller with respect to the total cost and the terms of payment for the motor vehicle, including any promissory notes or any other evidences of indebtedness. The conditional sale contract or a purchase order shall be signed by the buyer or his authorized representative and by the seller or its authorized representative, and an exact copy thereof shall be furnished the buyer by the seller at the time the buyer and the seller have signed the contract or purchase order. No motor vehicle shall be delivered under this chapter until the seller delivers to the buyer a fully executed copy of the conditional sale contract or purchase order and any vehicle purchase proposal and any credit statement which the seller has required or requested the buyer to sign, and which he has signed, during the

contract negotiations. The seller shall not obtain the signature of the buyer to a contract when it contains blank spaces to be filled in after it has been signed. Every conditional sale contract shall contain, although not necessarily in the sequence or order set forth below, the following separate items:

1. The cash price of the motor vehicle and of other items described in subdivision (e) of Section 2981 which are the subject of the conditional sale contract.

2. The amount of the buyer's downpayment, and whether made in cash or represented by the net agreed value of described property traded in, or both, together with a statement of the respective amounts credited for cash and for such property, but excluding any administrative finance charge shown in item 11.

3. The unpaid balance of cash price, which is the difference between items 1 and 2.

4. The cost to the buyer of any insurance, the premium for which is included in the contract balance. Any such cost for credit life or disability insurance may be included in the finance charge if the amount thereof is separately stated on the face of the contract.

5. The amounts, if any, paid or to be paid to any public officer in connection with the transaction and for license, certificate of title, and registration fees imposed by law.

6. The amount of any city, county, or city and county imposed fee or tax for a mobilehome.

7. The amount of any mobilehome escrow fee.

8. The amount of the state fee for issuance of a certificate of compliance or certificate of waiver pursuant to Section 9889.56 of the Business and Professions Code.

9. The amount, if any, charged by the seller for documentary preparation. If a seller charges a buyer a documentary preparation charge, then the contract shall contain a notice advising the buyer that such charge is not a governmental fee.

10. The amount of the unpaid balance, which is the sum of items 3, 4, 5, 6, 7, 8, and 9.

11. The amount, if any, of an administrative finance charge.

12. The amount financed, which is the difference between items 10 and 11.

13. The finance charge (A) expressed as the annual percentage rate as defined in Regulation Z and (B) expressed in dollars.

14. The number, amount and due dates or periods of payments scheduled to repay the indebtedness and the sum of such payments.

15. The names and addresses of all persons to whom the notice required under Section 2983.2 and permitted under Sections 2983.5 and 2984 of this code is to be sent.

16. (A) Where the contract includes a finance charge determined on the precomputed basis, an identification of the method of computing the unearned portion of the finance charge in the event of prepayment in full of the buyer's obligation and a statement of the amount or method of computation of any charge that may be

deducted from the amount of any such unearned finance charge in computing the amount that will be credited to the obligation or refunded to the buyer. Reference to the Rule of 78's, the sum of the digits, the sum of the periodic time balances or the actuarial method shall constitute a sufficient identification of the method of computing the unearned portion of the finance charge.

(B) Where the contract includes a finance charge which is determined on the simple-interest basis but provides for a minimum finance charge in the event of prepayment in full, a statement of that fact and the amount of the minimum finance charge or its method of calculation.

17. (A) Where the contract includes a finance charge which is determined on the precomputed basis and provides that the unearned portion of the finance charge to be refunded upon full prepayment of the contract is to be determined by a method other than actuarial, a notice in at least 10-point bold type if the contract is printed, reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and obtain a partial refund of the finance charge if it is \$1 or more. Because of the way the amount of this refund will be figured, the time when you prepay could increase the ultimate cost of credit under this agreement. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(B) Where the contract includes a finance charge which is determined on the precomputed basis and provides for the actuarial method for computing the unearned portion of the finance charge upon prepayment in full, a notice in at least 10-point bold type if the contract is printed, reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and obtain a partial refund of the finance charge if it is \$1 or more. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(C) Where the contract includes a finance charge which is determined on the simple-interest basis, a notice, in at least 10-point bold type if the contract is printed, reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and

liability for the unpaid indebtedness evidenced by this agreement.”

18. A notice to the buyer, in writing, and, if printed, in type no smaller than 8-point, that complaints concerning unfair or deceptive practices or methods by the seller shall be referred to the seller and, if the complaint is not resolved, may be referred to the Department of Motor Vehicles, Division of Compliance, 2570 24th Street, Sacramento, 95818.

Additional items may be included to explain the computations made in determining the amount to be paid by the buyer. If the finance charge or any portion thereof is calculated on the 365-day basis, the amount of the finance charge shown pursuant to item 13 shall be the amount which will be incurred by the buyer if all payments are received by the seller on their respective due dates.

(b) If any charge for insurance (other than for credit life or disability) is included in the contract balance and disbursement of any part thereof be made more than one year after the date of the conditional sale contract, any finance charge on the amount to be disbursed after one year shall be computed from the month the disbursement is to be made to the due date of the last installment under the conditional sale contract.

(c) (1) The dollar amount of the finance charge shown pursuant to item 13 of subdivision (a) shall not exceed the greater of:

(A) One percent of the unpaid balance multiplied by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment; or

(B) If the finance charge is determined by the precomputed basis, twenty-five dollars (\$25); or

(C) If the finance charge or a portion thereof is determined by the simple-interest basis:

(i) Twenty-five dollars (\$25) if the unpaid balance does not exceed one thousand dollars (\$1,000), (ii) fifty dollars (\$50) if the unpaid balance exceeds one thousand dollars (\$1,000) but does not exceed two thousand dollars (\$2,000), or (iii) seventy-five dollars (\$75) if the unpaid balance exceeds two thousand dollars (\$2,000).

(2) The holder of the contract shall not charge, collect or receive a finance charge which exceeds the dollar amount shown pursuant to item 13 of subdivision (a), except to the extent caused by (A) the holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled whether or not the parties enter into an agreement pursuant to Section 2982.3, (B) the use of estimations in the providing of the disclosures required by this chapter to the extent permitted by Regulation Z, or (C) as permitted by subdivisions (a) and (c) of Section 2982.8.

(3) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds five thousand dollars (\$5,000), the holder of the contract may, in lieu

of its right to a minimum finance charge under subparagraph (C) of paragraph (1), charge, receive, or collect on the date of the contract an administrative finance charge not to exceed seventy-five dollars (\$75), provided that the sum of any such administrative finance charge and the portion of the finance charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by subparagraph (A) of paragraph (1). Any administrative finance charge which is charged, received or collected by a holder shall be deemed a finance charge earned on the date of the contract.

(d) The contract may provide that for each installment in default for a period of not less than 10 days the buyer shall pay a delinquency charge in an amount not to exceed in the aggregate 5 percent of the installment, which amount may be collected only once on any installment regardless of the period during which it remains in default. Payments timely received by the seller under an extension or deferral agreement shall not be subject to a delinquency charge. The contract may provide for reasonable collection costs and fees in the event of delinquency.

(e) Notwithstanding any provision of a contract to the contrary, the buyer may pay at any time before maturity the entire indebtedness evidenced by the contract without penalty. In the event of prepayment in full:

(1) If the finance charge was determined on the precomputed basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, provided, however, that the buyer shall be entitled to a refund credit in the amount of the unearned portion of the finance charge, except as provided in paragraphs (3) and (4). The amount of the unearned portion of the finance charge shall be at least as great a proportion of the finance charge, or if the contract has been extended, deferred or refinanced, of the additional charge therefor, as the sum of the periodic monthly time balances payable more than 15 days after the date of prepayment bears to the sum of all the periodic monthly time balances under the schedule of installments in the contract or, if the contract has been extended, deferred or refinanced, as so extended, deferred or refinanced. Where the amount of the refund credit is less than one dollar (\$1), no refund credit need be made by the holder. Any refund credit in the amount of one dollar (\$1) or more may be made in cash or credited to the outstanding obligations of the buyer under the contract.

(2) If the finance charge or a portion thereof was determined on the simple-interest basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, including any earned finance charges which are unpaid as of that date and, if applicable, the amount provided in paragraph (3), and provided further that in cases where a finance charge is determined on the 360-day basis, the payments theretofore received will be assumed to have been received on their respective due dates regardless of the

actual dates on which such payments were received.

(3) Where the minimum finance charge provided by subparagraph (B) or subparagraph (C) of paragraph (1) of subdivision (c), if either is applicable, is greater than the earned finance charge as of the date of prepayment, the holder shall be additionally entitled to the difference.

(4) The provisions of this subdivision shall not impair the right of the seller or the seller's assignee to receive delinquency charges on delinquent installments and reasonable costs and fees as provided in subdivision (d) of this section or extension or deferral agreement charges as provided in Section 2982.3.

(5) Notwithstanding any provision of a contract to the contrary, whenever the indebtedness created by any contract is satisfied prior to its maturity through surrender of the motor vehicle, repossession of the motor vehicle, redemption of the motor vehicle after repossession, or any judgment, the outstanding obligation of the buyer shall be determined as provided in paragraph (1) or (2); provided further that the buyer's outstanding obligation shall be computed by the holder as of the date the holder recovers the value of the motor vehicle through disposition thereof or judgment is entered or, if the holder elects to keep the motor vehicle in satisfaction of the buyer's indebtedness, as of the date the holder takes possession of the motor vehicle.

(f) Notwithstanding any other provision of this chapter to the contrary, in the event any required downpayment on which no finance charge is imposed is to be made by the buyer to the seller on a conditional sale contract after the date of such contract but prior to the date of the second payment otherwise scheduled, the amount of such payment may be shown in such contract as a deferred portion of the cash downpayment or, if the finance charge is determined on the precomputed basis, as a deduction from the amount of the unpaid balance, and shall be included in the total of payments.

(g) Notwithstanding any other provision of this chapter to the contrary, any information required to be disclosed in a conditional sale contract under this chapter may be disclosed in any manner, method, or terminology required or permitted under Regulation Z, as in effect at the time such disclosure is made. Nothing contained in this chapter shall be deemed to prohibit the disclosure in such contract of additional information required or permitted under Regulation Z, as in effect at the time such disclosure is made.

(h) If the requirements of this section are otherwise met, the preparation and use of a separate document for agreements governing the ownership of the towbar, wheels, wheel hubs, and axles and for escrow instructions under Section 11950 of the Vehicle Code, relating to the sale of mobilehomes, shall not violate the single-document requirement of subdivision (a). Without such an agreement governing the ownership of the towbar, wheels, wheel hubs, and axles, no dealer or transporter shall remove or cause to be removed any towbar, wheel, wheel hub, or axle from any

mobilehome. Any price quoted for any mobilehome in a conditional sale contract, purchase order, or security agreement pursuant to this section shall state whether such price includes or excludes the cost of the towbar, wheels, wheel hubs, and axles. If such price does not include the towbar, wheels, wheel hubs, or axles, it shall show a deduction for the cost of such parts not included.

(i) This section shall become operative on July 1, 1981.

SEC. 22.5. Section 2982 of the Civil Code, as added by Section 1.6 of Chapter 1160 of the Statutes of 1979, is amended to read:

2982. (a) Every conditional sale contract for the sale of a motor vehicle, with or without accessories, shall be in writing and, if printed, shall be printed in type no smaller than 6-point, and shall contain in a single document all of the agreements of the buyer and seller with respect to the total cost and the terms of payment for the motor vehicle, including any promissory notes or any other evidences of indebtedness. The conditional sale contract or a purchase order shall be signed by the buyer or his authorized representative and by the seller or its authorized representative, and an exact copy thereof shall be furnished the buyer by the seller at the time the buyer and the seller have signed the contract or purchase order. No motor vehicle shall be delivered under this chapter until the seller delivers to the buyer a fully executed copy of the conditional sale contract or purchase order and any vehicle purchase proposal and any credit statement which the seller has required or requested the buyer to sign, and which he has signed, during the contract negotiations. The seller shall not obtain the signature of the buyer to a contract when it contains blank spaces to be filled in after it has been signed. Every conditional sale contract shall contain, although not necessarily in the sequence or order set forth below, the following separate items:

1. The cash price of the motor vehicle and of other items described in subdivision (e) of Section 2981 which are the subject of the conditional sale contract.

2. The amount of the buyer's downpayment, and whether made in cash or represented by the net agreed value of described property traded in, or both, together with a statement of the respective amounts credited for cash and for such property, but excluding any administrative finance charge shown in item 9.

3. The unpaid balance of cash price, which is the difference between items 1 and 2.

4. The cost to the buyer of any insurance, the premium for which is included in the contract balance. Any such cost for credit life or disability insurance may be included in the finance charge if the amount thereof is separately stated on the face of the contract.

5. The amounts, if any, paid or to be paid to any public officer in connection with the transaction and for license, certificate of title, and registration fees imposed by law.

6. The amount of the state fee for issuance of a certificate of compliance or certificate of waiver pursuant to Section 9889.56 of the

Business and Professions Code.

7. The amount, if any, charged by the seller for documentary preparation. If a seller charges a buyer a documentary preparation charge, then the contract shall contain a notice advising the buyer that such charge is not a governmental fee.

8. The amount of the unpaid balance, which is the sum of items 3, 4, 5, 6, and 7.

9. The amount, if any, of an administrative finance charge.

10. The amount financed, which is the difference between items 8 and 9.

11. The finance charge (A) expressed as the annual percentage rate as defined in Regulation Z and (B) expressed in dollars.

12. The number, amount and due dates or periods of payments scheduled to repay the indebtedness and the sum of such payments.

13. The names and addresses of all persons to whom the notice required under Section 2983.2 and permitted under Sections 2983.5 and 2984 of this code is to be sent.

14. (A) Where the contract includes a finance charge determined on the precomputed basis, an identification of the method of computing the unearned portion of the finance charge in the event of prepayment in full of the buyer's obligation and a statement of the amount or method of computation of any charge that may be deducted from the amount of any such unearned finance charge in computing the amount that will be credited to the obligation or refunded to the buyer. Reference to the Rule of 78's, the sum of the digits, the sum of the periodic time balances or the actuarial method shall constitute a sufficient identification of the method of computing the unearned portion of the finance charge.

(B) Where the contract includes a finance charge which is determined on the simple-interest basis but provides for a minimum finance charge in the event of prepayment in full, a statement of that fact and the amount of the minimum finance charge or its method of calculation.

15. (A) Where the contract includes a finance charge which is determined on the precomputed basis and provides that the unearned portion of the finance charge to be refunded upon full prepayment of the contract is to be determined by a method other than actuarial, a notice, in at least 10-point bold type if the contract is printed, reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and obtain a partial refund of the finance charge if it is \$1 or more. Because of the way the amount of this refund will be figured, the time when you prepay could increase the ultimate cost of credit under this agreement. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(B) Where the contract includes a finance charge which is determined on the precomputed basis and provides for the actuarial method for computing the unearned portion of the finance charge upon prepayment in full, a notice in at least 10-point bold type if the contract is printed, reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time and obtain a partial refund of the finance charge if it is \$1 or more. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

(C) Where the contract includes a finance charge which is determined on the simple-interest basis, a notice, in at least 10-point bold type if the contract is printed, reading as follows: "Notice to buyer: (1) Do not sign this agreement before you read it or if it contains any blank spaces to be filled in. (2) You are entitled to a completely filled-in copy of this agreement. (3) You can prepay the full amount due under this agreement at any time. (4) If you default in the performance of your obligations under this agreement, the vehicle may be repossessed and you may be subject to suit and liability for the unpaid indebtedness evidenced by this agreement."

16. A notice to the buyer, in writing, and, if printed, in type no smaller than 8-point, that complaints concerning unfair or deceptive practices or methods by the seller shall be referred to the seller and, if the complaint is not resolved, may be referred to the Department of Motor Vehicles, Division of Compliance, 2570 24th Street, Sacramento, 95818.

Additional items may be included to explain the computations made in determining the amount to be paid by the buyer. If the finance charge or any portion thereof is calculated on the 365-day basis, the amount of the finance charge shown pursuant to item 11 shall be the amount which will be incurred by the buyer if all payments are received by the seller on their respective due dates.

(b) If any charge for insurance (other than for credit life or disability) is included in the contract balance and disbursement of any part thereof be made more than one year after the date of the conditional sale contract, any finance charge on the amount to be disbursed after one year shall be computed from the month the disbursement is to be made to the due date of the last installment under the conditional sale contract.

(c) (1) The dollar amount of the finance charge shown pursuant to item 11 of subdivision (a) shall not exceed the greater of:

(A) One percent of the unpaid balance multiplied by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment; or

(B) If the finance charge is determined by the precomputed basis,

twenty-five dollars (\$25); or

(C) If the finance charge or a portion thereof is determined by the simple-interest basis:

(i) Twenty-five dollars (\$25) if the unpaid balance does not exceed one thousand dollars (\$1,000), (ii) fifty dollars (\$50) if the unpaid balance exceeds one thousand dollars (\$1,000) but does not exceed two thousand dollars (\$2,000), or (iii) seventy-five dollars (\$75) if the unpaid balance exceeds two thousand dollars (\$2,000).

(2) The holder of the contract shall not charge, collect or receive a finance charge which exceeds the dollar amount shown pursuant to item 11 of subdivision (a), except to the extent caused by (A) the holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled whether or not the parties enter into an agreement pursuant to Section 2982.3, (B) the use of estimations in the providing of the disclosures required by this chapter to the extent permitted by Regulation Z, or (C) as permitted by subdivisions (a) and (c) of Section 2982.8.

(3) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds five thousand dollars (\$5,000), the holder of the contract may, in lieu of its right to a minimum finance charge under subparagraph (C) of paragraph (1), charge, receive, or collect on the date of the contract an administrative finance charge not to exceed seventy-five dollars (\$75), provided that the sum of any such administrative finance charge and the portion of the finance charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by subparagraph (A) of paragraph (1). Any administrative finance charge which is charged, received or collected by a holder shall be deemed a finance charge earned on the date of the contract.

(d) The contract may provide that for each installment in default for a period of not less than 10 days the buyer shall pay a delinquency charge in an amount not to exceed in the aggregate 5 percent of the installment, which amount may be collected only once on any installment regardless of the period during which it remains in default. Payments timely received by the seller under an extension or deferral agreement shall not be subject to a delinquency charge. The contract may provide for reasonable collection costs and fees in the event of delinquency.

(e) Notwithstanding any provision of a contract to the contrary, the buyer may pay at any time before maturity the entire indebtedness evidenced by the contract without penalty. In the event of prepayment in full:

(1) If the finance charge was determined on the precomputed basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, provided, however, that the buyer shall be entitled to a refund credit in the amount of the

unearned portion of the finance charge, except as provided in paragraphs (3) and (4). The amount of the unearned portion of the finance charge shall be at least as great a proportion of the finance charge, or if the contract has been extended, deferred or refinanced, of the additional charge therefor, as the sum of the periodic monthly time balances payable more than 15 days after the date of prepayment bears to the sum of all the periodic monthly time balances under the schedule of installments in the contract or, if the contract has been extended, deferred or refinanced, as so extended, deferred or refinanced. Where the amount of the refund credit is less than one dollar (\$1), no refund credit need be made by the holder. Any refund credit in the amount of one dollar (\$1) or more may be made in cash or credited to the outstanding obligations of the buyer under the contract.

(2) If the finance charge or a portion thereof was determined on the simple-interest basis, the amount required to prepay the contract shall be the outstanding contract balance as of that date, including any earned finance charges which are unpaid as of that date and, if applicable, the amount provided in paragraph (3), and provided further that in cases where a finance charge is determined on the 360-day basis, the payments theretofore received will be assumed to have been received on their respective due dates regardless of the actual dates on which such payments were received.

(3) Where the minimum finance charge provided by subparagraph (B) or subparagraph (C) of paragraph (1) of subdivision (c), if either is applicable, is greater than the earned finance charge as of the date of prepayment, the holder shall be additionally entitled to the difference.

(4) The provisions of this subdivision shall not impair the right of the seller or the seller's assignee to receive delinquency charges on delinquent installments and reasonable costs and fees as provided in subdivision (d) of this section or extension or deferral agreement charges as provided in Section 2982.3.

(5) Notwithstanding any provision of a contract to the contrary, whenever the indebtedness created by any contract is satisfied prior to its maturity through surrender of the motor vehicle, repossession of the motor vehicle, redemption of the motor vehicle after repossession, or any judgment, the outstanding obligation of the buyer shall be determined as provided in paragraph (1) or (2); provided further that the buyer's outstanding obligation shall be computed by the holder as of the date the holder recovers the value of the motor vehicle through disposition thereof or judgment is entered or, if the holder elects to keep the motor vehicle in satisfaction of the buyer's indebtedness, as of the date the holder takes possession of the motor vehicle.

(f) Notwithstanding any other provision of this chapter to the contrary, in the event any required downpayment on which no finance charge is imposed is to be made by the buyer to the seller on a conditional sale contract after the date of such contract but prior

to the date of the second payment otherwise scheduled, the amount of such payment may be shown in such contract as a deferred portion of the cash downpayment or, if the finance charge is determined on the precomputed basis, as a deduction from the amount of the unpaid balance, and shall be included in the total of payments.

(g) Notwithstanding any other provision of this chapter to the contrary, any information required to be disclosed in a conditional sale contract under this chapter may be disclosed in any manner, method, or terminology required or permitted under Regulation Z, as in effect at the time such disclosure is made. Nothing contained in this chapter shall be deemed to prohibit the disclosure in such contract of additional information required or permitted under Regulation Z, as in effect at the time such disclosure is made.

(h) This section shall become operative on July 1, 1981.

SEC. 23. Section 2982.3 is added to the Civil Code, to read:

2982.3. (a) The holder of a conditional sale contract may, upon agreement with the buyer, extend the scheduled due date or defer the scheduled payment of all or of any part of any installment or installments payable thereunder. No charge shall be made for any such extension or deferment unless the agreement for such extension or deferment is in writing and signed by the parties thereto.

(b) Where the contract includes a finance charge determined on the precomputed basis, the holder may charge and contract for the payment of an extension or deferral agreement charge by the buyer and collect and receive the same, but such charge may not exceed an amount equal to 1 percent per month simple interest on the amount of the installment or installments, or part thereof, extended or deferred for the period of extension or deferral. Such period shall not exceed the period from the date when such extended or deferred installment or installments, or part thereof, would have been payable in the absence of such extension or deferral to the date when such installment or installments, or part thereof, are made payable under the agreement of extension or deferment; except that a minimum charge of one dollar (\$1) for the period of extension or deferral may be made in any case where the extension or deferral agreement charge, when computed at such rate, amounts to less than one dollar (\$1).

(c) Where the contract includes a finance charge determined on the simple-interest basis, the holder may charge and contract for the payment of an extension or deferral agreement charge by the buyer and collect and receive the same, but the charge for the extension or deferral agreement may not exceed the lesser of twenty-five dollars (\$25) or 10 percent of the then unpaid balance of the contract. Such charge shall be in addition to any finance charges which accrue because such extended or deferred payments are received at a time other than as originally scheduled.

SEC. 24. Section 2982.8 of the Civil Code is amended to read:

2982.8. (a) If a buyer is obligated under the terms of the conditional sale contract to maintain insurance on the vehicle and

subsequent to the execution of the contract the buyer either fails to maintain or requests the holder to procure such insurance, any amounts advanced by the holder to procure such insurance may be the subject of finance charges from the date of advance as provided in subdivision (d). Such amounts shall be secured as provided in the contract and permitted by Section 2984.2 if the holder notifies the buyer in writing of his or her option to repay such amounts in any one of the following ways:

(1) Full payment within 10 days from the date of giving or mailing the notice.

(2) Full amortization during the term of the insurance.

(3) Full amortization after the term of the conditional sale contract to be payable in installments which do not exceed the average payment allocable to a monthly period under the contract. The option offered under this subparagraph shall not apply to any industrial loan company licensed pursuant to Division 7 (commencing with Section 18000) of the Financial Code.

(4) If offered by the holder, any other amortization plan.

If the buyer neither pays in full the amounts advanced nor notifies the holder in writing of his or her choice regarding amortization options before the expiration of 10 days from the date of giving or mailing the notice by the holder, the holder may amortize the amounts advanced on a secured basis pursuant to either paragraph (2) or (3).

(b) The written notification described in subdivision (a) shall also set forth the amounts advanced by the holder and, with respect to each amortization plan the amount of the additional finance charge, the sum of the amounts advanced and the additional finance charge, the number of installments required, the amount of each installment and the date for payment of the installments.

(c) If subsequent to the execution of the contract the holder advances amounts for repairs to or preservation of the motor vehicle or preservation of the holder's security interest therein and such advances are occasioned by the buyer's default under the contract, such advances may be the subject of finance charges from the date of advance as provided in subdivision (d) and shall be secured as provided in the contract and permitted by Section 2984.2.

(d) The maximum rate of finance charge which may be imposed on amounts advanced by the holder subsequent to the execution of the contract for insurance, repairs to or preservation of the motor vehicle, or preservation of the holder's security interest therein, shall not exceed the annual percentage rate disclosed pursuant to paragraph 13 of subdivision (a) of Section 2982.

SEC. 25. Section 2984.2 of the Civil Code is repealed.

SEC. 26. Section 2984.2 is added to the Civil Code, to read:

2984.2. (a) No conditional sale contract, and no agreement between a seller and a buyer made in connection with a conditional sale contract, may provide for the inclusion of title to or a lien upon any property other than:

(1) The motor vehicle which is the subject matter of the sale, or accessories, accessions, replacements or proceeds thereof;

(2) The proceeds of any insurance policies covering the motor vehicle which are required by the seller or the returned premiums of any such policies if the premiums for such policies are included in the unpaid balance;

(3) The proceeds of any credit insurance policies which the buyer purchases in connection with the motor vehicle conditional sale contract or the returned premiums of any such policies if the premiums for such policies are included in the unpaid balance; or

(4) The proceeds and returned price of any service contract if the cost of such contract is included in the unpaid balance.

(b) Subdivision (a) shall not apply to any agreement which meets the requirements of subdivision (b) of Section 2982.5 and otherwise complies with this chapter.

(c) A provision in violation of this section shall be void.

SEC. 27. It is the intent of the Legislature, if this bill and Assembly Bill 3371 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 1805.1 of the Civil Code, and this bill is chaptered after Assembly Bill 3371, that Section 1805.1 of the Civil Code, as amended by Section 1 of Assembly Bill 3371, be further amended on the effective date of this act in the form set forth in Section 13 of this act to incorporate the changes in Section 1805.1 proposed by this bill. Therefore, if this bill and Assembly Bill 3371 are both chaptered and become effective on or before January 1, 1981, and Assembly Bill 3371 is chaptered before this bill and amends Section 1805.1, Section 13 of this act shall become operative on the effective date of this act and Section 12 of this act shall not become operative.

SEC. 28. Section 14 of this act shall become operative only if this bill and Assembly Bill 3371 are both chaptered, Assembly Bill 3371 adds Section 1805.1 to the Civil Code operative on the first day of the first month following the second anniversary date of the effective date of Assembly Bill 3371, and this bill is chaptered after Assembly Bill 3371.

SEC. 28.5. Section 22.5 of this act shall become operative only if this bill and Assembly Bill 2915 are both chaptered, Assembly Bill 2915 amends Section 2982 of the Civil Code operative on July 1, 1981, and this bill is chaptered after Assembly Bill 2915, in which case Section 22 of this act shall not become operative.

SEC. 29. 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 805 of the Statutes of 1979 enacted a comprehensive system regulating the use of precomputed interest in retail installment contracts and providing for a simple-interest basis for such contracts. For that comprehensive statutory system to work properly certain corrective amendments have been found to be

necessary and in order to accomplish this as soon as possible, it is necessary that this act take effect immediately.

SEC. 30. Section 18.5 of this act shall become operative on January 1, 1981.

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## CHAPTER 1381

An act to amend, repeal and add Sections 1805.1 and 1810.2 of, and to add Chapter 3 (commencing with Section 1812.40) to Title 2 of Part 4 of Division 3 of, the Civil Code, relating to installment contracts.

[Became law without Governor's signature Filed with  
Secretary of State October 1, 1980 ]

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

SECTION 1. Section 1805.1 of the Civil Code is amended to read:  
1805.1. (a) If the finance charge is determined by the precomputed basis, the dollar amount of the finance charge shown pursuant to item (j) of Section 1803.3 shall not exceed the greater of:

(1) Eleven-twelfths of 1 percent on so much of the unpaid balance as does not exceed one thousand dollars (\$1,000) plus an amount which shall not exceed two-thirds of 1 percent of that portion of the unpaid balance which exceeds one thousand dollars (\$1,000), multiplied by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment; or

(2) Twelve dollars (\$12) but if the due date of the last installment of the contract is eight months or less after its effective date, ten dollars (\$10).

(b) If the finance charge, or a portion thereof, is determined by the simple-interest basis, the dollar amount of the finance charge shown pursuant to item (j) of Section 1803.3 shall not exceed the greater of:

(1) The product of the unpaid balance multiplied by the maximum annual percentage rate (as defined in Regulation Z) which would be permitted if item (1) of subdivision (a) were applicable to the contract; or

(2) (A) Ten dollars (\$10) if the unpaid balance does not exceed five hundred dollars (\$500), (B) twenty-five dollars (\$25) if the unpaid balance exceeds five hundred dollars (\$500), but does not exceed one thousand dollars (\$1,000), (C) fifty dollars (\$50) if the unpaid balance exceeds one thousand dollars (\$1,000), but does not exceed two thousand dollars (\$2,000), or (D) seventy-five dollars (\$75) if the unpaid balance exceeds two thousand dollars (\$2,000).

(c) The holder of the contract shall not charge, collect or receive

a finance charge which exceeds the dollar amount shown pursuant to item (j) of Section 1803.3, except to the extent caused by (1) the holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled, (2) the use of estimations in the providing of the disclosures required by this chapter to the extent permitted by Regulation Z, or (3) as permitted by Section 1805.8.

(d) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds five thousand dollars (\$5,000), the holder of the contract may, in lieu of its right to a minimum finance charge under item (2) of subdivision (b) charge, receive or collect on the date of the contract an administrative finance charge not to exceed seventy-five dollars (\$75) provided that the sum of any such administrative finance charge and the portion of the finance charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by item (1) of subdivision (b). Any administrative charge which is charged, received or collected by a holder shall be deemed a finance charge earned on the date of the contract.

This section shall remain in effect only until March 31, 1982, and as of that date is repealed.

SEC. 2. Section 1805.1 of the Civil Code is amended to read:

1805.1. (a) The dollar amount of the finance charge shown pursuant to item (j) of Section 1803.3 shall not exceed the greater of:

(1) Eleven-twelfths of 1 percent on so much of the unpaid balance as does not exceed one thousand dollars (\$1,000) plus an amount which shall not exceed two-thirds of 1 percent of that portion of the unpaid balance which exceeds one thousand dollars (\$1,000), multiplied by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment; or

(2) If the finance charge is determined by the precomputed basis, twelve dollars (\$12) but if the due date of the last installment of the contract is eight months or less after its effective date, ten dollars (\$10); or

(3) If the finance charge, or a portion thereof, is determined by the simple-interest basis:

(A) Ten dollars (\$10) if the unpaid balance does not exceed five hundred dollars (\$500), (B) twenty-five dollars (\$25) if the unpaid balance exceeds five hundred dollars (\$500), but does not exceed one thousand dollars (\$1,000), (C) fifty dollars (\$50) if the unpaid balance exceeds one thousand dollars (\$1,000), but does not exceed two thousand dollars (\$2,000), or (D) seventy-five dollars (\$75) if the unpaid balance exceeds two thousand dollars (\$2,000).

(b) The holder of the contract shall not charge, collect or receive a finance charge which exceeds the dollar amount shown pursuant to item (j) of Section 1803.3, except to the extent caused by (1) the

holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled, whether or not the parties enter into an agreement pursuant to Section 1807.1, (2) the use of estimations in the providing of the disclosures required by this chapter to the extent permitted by Regulation Z, or (3) as permitted by Section 1805.8.

(c) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds five thousand dollars (\$5,000), the holder of the contract may, in lieu of its right to a minimum finance charge under item (3) of subdivision (a), charge, receive or collect on the date of the contract an administrative finance charge not to exceed seventy-five dollars (\$75) provided that the sum of any such administrative finance charge and the portion of the finance charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by item (1) of subdivision (a). Any administrative finance charge which is charged, received or collected by a holder shall be deemed a finance charge earned on the date of the contract.

This section shall remain in effect only until March 31, 1982, and as of that date is repealed.

SEC. 3. Section 1805.1 is added to the Civil Code, to read:

1805.1. (a) If the finance charge is determined by the precomputed basis, the dollar amount of the finance charge shown pursuant to item (j) of Section 1803.3 shall not exceed the greater of:

(a) If the finance charge is determined by the precomputed basis, the dollar amount of the finance charge shown pursuant to item (j) of Section 1803.3 shall not exceed the greater of:

(1) Five-sixths of 1 percent on so much of the unpaid balance as does not exceed one thousand dollars (\$1,000) plus an amount which shall not exceed two-thirds of 1 percent of that portion of the unpaid balance which exceeds one thousand dollars (\$1,000), multiplied by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment; or

(2) Twelve dollars (\$12) but if the due date of the last installment of the contract is eight months or less after its effective date, ten dollars (\$10).

(b) If the finance charge, or a portion thereof, is determined by the simple-interest basis, the dollar amount of the finance charge shown pursuant to item (j) of Section 1803.3 shall not exceed the greater of:

(1) The product of the unpaid balance multiplied by the maximum annual percentage rate (as defined in Regulation Z) which would be permitted if item (j) of subdivision (a) were applicable to the contract; or

(2) (A) Ten dollars (\$10) if the unpaid balance does not exceed five hundred dollars (\$500), (B) twenty-five dollars (\$25) if the unpaid balance exceeds five hundred dollars (\$500), but does not exceed one thousand dollars (\$1,000), (C) fifty dollars (\$50) if the

unpaid balance exceeds one thousand dollars (\$1,000), but does not exceed two thousand dollars (\$2,000), or (D) seventy-five dollars (\$75) if the unpaid balance exceeds two thousand dollars (\$2,000).

(c) The holder of the contract shall not charge, collect or receive a finance charge which exceeds the dollar amount shown pursuant to item (j) of Section 1803.3, except to the extent caused by (1) the holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled, (2) the use of estimations in the providing of the disclosures required by this chapter to the extent permitted by Regulation Z, or (3) as permitted by Section 1805.8.

(d) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds five thousand dollars (\$5,000), the holder of the contract may, in lieu of its right to a minimum finance charge under item (2) of subdivision (b) charge, receive or collect on the date of the contract an administrative finance charge not to exceed seventy-five dollars (\$75) provided that the sum of any such administrative finance charge and the portion of the finance charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by item (1) of subdivision (b). Any administrative finance charge which is charged, received or collected by a holder shall be deemed a finance charge earned on the date of the contract.

This section shall become operative on April 1, 1982.

SEC. 4. Section 1805.1 is added to the Civil Code, to read:

1805.1. (a) The dollar amount of the finance charge shown pursuant to item (j) of Section 1803.3 shall not exceed the greater of:

(1) Five-sixths of 1 percent on so much of the unpaid balance as does not exceed one thousand dollars (\$1,000) plus an amount which shall not exceed two-thirds of 1 percent of that portion of the unpaid balance which exceeds one thousand dollars (\$1,000), multiplied by the number of months (computed on the basis of a full month for any fractional month period in excess of 15 days) elapsing between the date of the contract and the due date of the last installment; or

(2) If the finance charge is determined by the precomputed basis, twelve dollars (\$12) but if the due date of the last installment of the contract is eight months or less after its effective date, ten dollars (\$10); or

(3) If the finance charge, or a portion thereof, is determined by the simple-interest basis:

(A) Ten dollars (\$10) if the unpaid balance does not exceed five hundred dollars (\$500), (B) twenty-five dollars (\$25) if the unpaid balance exceeds five hundred dollars (\$500), but does not exceed one thousand dollars (\$1,000), (C) fifty dollars (\$50) if the unpaid balance exceeds one thousand dollars (\$1,000), but does not exceed two thousand dollars (\$2,000), or (D) seventy-five dollars (\$75) if the unpaid balance exceeds two thousand dollars (\$2,000).

(b) The holder of the contract shall not charge, collect or receive

a finance charge which exceeds the dollar amount shown pursuant to item (j) of Section 1803.3, except to the extent caused by (1) the holder's receipt of one or more payments under a contract which provides for determination of the finance charge or a portion thereof on the 365-day basis at a time or times other than as originally scheduled, whether or not the parties enter into an agreement pursuant to Section 1807.1, (2) the use of estimations in the providing of the disclosures required by this chapter to the extent permitted by Regulation Z, or (3) as permitted by Section 1805.8.

(c) If the finance charge or a portion thereof is determined by the simple-interest basis and the amount of the unpaid balance exceeds five thousand dollars (\$5,000), the holder of the contract may, in lieu of its right to a minimum finance charge under item (3) of subdivision (a), charge, receive, or collect on the date of the contract an administrative finance charge not to exceed seventy-five dollars (\$75), provided that the sum of any such administrative finance charge and the portion of the finance charge determined by the simple-interest basis shall not exceed the maximum total finance charge permitted by item (1) of subdivision (a). Any administrative finance charge which is charged, received or collected by a holder shall be deemed a finance charge earned on the date of the contract.

This section shall become operative on April 1, 1982.

SEC. 5. Section 1810.2 of the Civil Code is amended to read:

1810.2. Subject to the other provisions of this article, the seller or holder of a retail installment account may charge, receive and collect the finance charge authorized by this chapter. The finance charge shall not exceed the following rates computed on the outstanding balances from month to month:

(a) On so much of the outstanding balance as does not exceed one thousand dollars (\$1,000), 1.6 percent.

(b) If the outstanding balance is more than one thousand dollars (\$1,000), 1 percent on the excess over one thousand dollars (\$1,000) of the outstanding balance.

(c) If the finance charge so computed is less than one dollar (\$1) for any month, one dollar (\$1).

(d) The finance charge may be computed on a schedule of fixed amounts if as so computed it is applied to all amounts of outstanding balances equal to the fixed amounts minus a differential of not more than five dollars (\$5), provided that it is also applied to all amounts of outstanding balances equal to the fixed amount plus at least the same differential.

(e) Payments received by a seller or holder of a retail installment account are deemed, for the purpose of determining the amount of the debt subject to the finance charge limitations of this section, to have been applied in accordance with the method set forth in Section 1810.6.

This section shall remain in effect only until March 31, 1982, and as of that date is repealed.

SEC. 6. Section 1810.2 is added to the Civil Code, to read:

1810.2. Subject to the other provisions of this article, the seller or holder of a retail installment account may charge, receive and collect the finance charge authorized by this chapter. The finance charge shall not exceed the following rates computed on the outstanding balances from month to month:

(a) On so much of the outstanding balance as does not exceed one thousand dollars (\$1,000), 1½ percent.

(b) If the outstanding balance is more than one thousand dollars (\$1,000), 1 percent on the excess over one thousand dollars (\$1,000) of the outstanding balance.

(c) If the finance charge so computed is less than one dollar (\$1) for any month, one dollar (\$1).

(d) The finance charge may be computed on a schedule of fixed amounts if as so computed it is applied to all amounts of outstanding balances equal to the fixed amounts minus a differential of not more than five dollars (\$5), provided that it is also applied to all amounts of outstanding balances equal to the fixed amount plus at least the same differential.

This section shall become operative on April 1, 1982.

SEC. 7. Chapter 3 (commencing with Section 1812.40) is added to Title 2 of Part 4 of Division 3 of the Civil Code, to read:

### CHAPTER 3. RETAIL CREDIT ADVISORY COMMITTEE

1812.40. The Governor shall appoint a nine member Retail Credit Advisory Committee consisting of the following members:

(a) Three members representing the public.

(b) Three members representing consumer groups.

(c) Three members representing the retail credit industry.

1812.41. The committee shall have the following authority and duties:

(a) To investigate the costs of providing consumer credit to California customers:

(b) To obtain from the consumer credit industry for analysis records and information pertaining to such costs;

(c) To determine the desirability of maintaining rate ceilings in consumer credit transactions;

(d) To report to the Assembly Committee on Finance, Insurance and Commerce and to the Senate Committee on Insurance and Financial Institutions on July 1, 1981 on the results of this study.

SEC. 8. Except as otherwise provided in Section 9, Sections 3 and 6 of this act shall become operative on April 1, 1982, unless a resolution approved by a majority vote of either house of the Legislature changes such date.

SEC. 9. It is the intent of the Legislature that if this bill and Assembly Bill 3393 are both chaptered and become effective on or before January 1, 1981, both bills amend Section 1805.1 of the Civil Code, and this bill is chaptered after Assembly Bill 3393, that Section 1805.1 of the Civil Code, as amended by Assembly Bill 3393, 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 1805.1 proposed by this bill. Therefore, if this bill and Assembly Bill 3393 are both chaptered and become effective on or before January 1, 1981, and Assembly Bill 3393 is chaptered before this bill and amends Section 1805.1, 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.

SEC. 10. Section 4 of this act shall become operative only if this bill and Assembly Bill 3393 are both chaptered, Assembly Bill 3393 amends Section 1805.1 of the Civil Code, and this bill is chaptered after Assembly Bill 3393, in which case Section 3 of this act shall not become operative.

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CONCURRENT AND JOINT RESOLUTIONS  
AND CONSTITUTIONAL AMENDMENTS

1979-80

REGULAR SESSION

1980 RESOLUTION CHAPTERS

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## RESOLUTION CHAPTER 1

Assembly Constitutional Amendment No. 46—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by adding Section 14.5 to Article XVI thereof, relating to the financing of alternative energy sources facilities.

[Filed with Secretary of State January 24, 1980 ]

*Resolved by the Assembly, the Senate concurring,* That the Legislature of the State of California at its 1979–80 Regular Session commencing on the fourth day of December, 1978, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the state be amended by adding Section 14.5 to Article XVI thereof, to read:

SEC. 14.5. The Legislature may provide for the issuance of revenue bonds to finance the acquisition, construction, and installation of facilities utilizing cogeneration technology, solar power, biomass, or any other alternative source the Legislature may deem appropriate, including the acquisition of all technological facilities necessary or convenient for the use of alternative sources, and for the lease or sale of such facilities to persons, associations, or corporations, other than municipal corporations; provided, that such revenue bonds shall not be secured by the taxing power of the state; and provided, further, that the Legislature may, by resolution adopted by both houses, prohibit or limit any proposed issuance of such revenue bonds. No provision of this Constitution, including, but not limited to, Sections 1, 2, and 6, of this article, shall be construed as a limitation upon the authority granted to the Legislature pursuant to this section. Nothing contained herein shall authorize any public agency to operate any industrial or commercial enterprise.

## RESOLUTION CHAPTER 2

Assembly Concurrent Resolution No. 72—Relative to display of a California Military Medal of Valor in honor of California servicemen interred at Arlington National Cemetery.

[Filed with Secretary of State February 1, 1980.]

WHEREAS, Men and women from the State of California have served with distinction in the armed forces of the United States in time of war; and

WHEREAS, Californians serving with the armed forces of the United States have given their lives in the defense of this great

nation, and many such Californians are now interred in the hallowed soil of the United States National Cemetery at Arlington, Virginia; and

WHEREAS, It is befitting that the State of California honor those Californians who have given their lives in the service of their country; now, therefore, be it

*Resolved, by the Assembly of the State of California, the Senate thereof concurring,* That the Governor of the State of California, or his designee, and a Member of the Legislature designated by the Joint Rules Committee are requested to present a Medal of Valor to the Superintendent, Arlington National Cemetery, such medal to be suitable for display and inscribed as follows: "Presented and displayed in honor and in memory of all veterans of California who gave their lives for their Country, as well as those who rest in Honored Glory here at Arlington National Cemetery;" and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit a copy of this resolution to the Governor of the State of California.

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### RESOLUTION CHAPTER 3

Senate Concurrent Resolution No. 51—Relative to memorializing Vincent Thomas.

[Filed with Secretary of State February 12, 1980.]

WHEREAS, It was with the most profound sorrow, and deep sense of loss, that word was received of the passing of a former colleague and highly respected Member of the California State Legislature, Vincent Thomas of San Pedro; and

WHEREAS, After being elected for the first time in 1940, Vincent Thomas served 19 consecutive terms in the California State Legislature; and

WHEREAS, He graduated from San Pedro High School, where he earned the Epehbian Ring for scholarship and character, continued his education at Santa Clara University, graduating with a Bachelor of Philosophy degree, and then studied law both at Santa Clara University and Loyola University Law School; and

WHEREAS, During his years at Santa Clara, he played on the football team, coached boxing and various other sports, and served as the physical education instructor; and

WHEREAS, Long active in California Democratic Party affairs, Mr. Thomas was a Presidential Elector in 1940 and 1944, and a delegate to the National Democratic Party Convention in 1948 and 1960; and

WHEREAS, He served as Democratic Floor Leader in the State Assembly and was an active voice in the Democratic Caucus, often

being called upon to act as mediator to reconcile differences between opposing factions; and

WHEREAS, During his brilliant career, Mr. Thomas compiled one of the best voting records in the Legislature, as rated by organized labor and senior citizen groups, being a strong supporter of aid for the aged, blind, and disabled, increased assistance to senior citizens, reduction of property taxes for homeowners, and relief to renters; and

WHEREAS, With a deep and abiding commitment to his constituents, he authored the original legislation that created the present California State College at Dominguez Hills, and his legislation to create a vast recreational and sporting complex in the Harbor Area was signed into law; and

WHEREAS, He served the 52nd Assembly District with courage and ability, and the Ombudsman Program in his district helped thousands of constituents with their problems, very effectively cutting through the usual bureaucracy, and it served as a model for other districts in California and other states; and

WHEREAS, Mr. Thomas was affectionately known as "Boxing's Saint," as he did more to upgrade the sport and provide pension benefits to ex-fighters than any lawmaker in history; and

WHEREAS, He provided firm and constructive leadership as Chairman of the Assembly Committee on Intergovernmental Relations, and on January 12, 1977, Speaker Leo T. McCarthy appointed him as the Assistant Speaker pro Tempore for the 1977-78 Regular Session; and

WHEREAS, He also distinguished himself as a member of such important and active committees as Labor, Employment and Consumer Affairs, and Human Resources; and

WHEREAS, He received a gubernatorial appointment as a member of the Pacific Fisheries Commission, and he was the guiding force behind the \$21 million dollar bridge across the main channel of the Los Angeles Harbor, from San Pedro to Terminal Island--one of the largest suspension bridges in the United States and known as the "Vincent Thomas Bridge"; and

WHEREAS, His wisdom and love of law, humanity and compassion, familiarity with issues under debate, and hard work made him a most persuasive and effective public leader and won for him the respect of his colleagues and the affection of all who had the good fortune to know him; and

WHEREAS, He is survived by his widow, Mary DiCarlo Thomas; his daughter, Mary Virginia (Ginny) Haughey; and his son, Vincent, Jr.; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Members express their deepest sympathy at the passing of their former colleague and good friend, Vincent Thomas, and by this resolution memorialize his superior record of personal and professional achievement on behalf of the State of California, and in particular the 52nd Assembly District and

his fellow citizens, as well as the love and devotion he displayed on behalf of his family and friends; and be it further

*Resolved*, That the Secretary of the Senate transmit suitably prepared copies of this resolution to Mary DiCarlo Thomas, Mary Virginia Haughey, and Vincent Thomas Jr.

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#### RESOLUTION CHAPTER 4

Senate Concurrent Resolution No. 43—Relative to the Joint Committee on the State's Economy.

[Filed with Secretary of State February 15, 1980.]

*Resolved by the Senate of the State of California, the Assembly thereof concurring*, That the Joint Committee on the State's Economy is continued in existence through January 31, 1981, notwithstanding the provisions of any prior concurrent resolution affecting such committee. The committee shall continue to have the powers and duties granted and imposed by the resolution creating or continuing it. In addition, the committee may establish advisory committees to provide advice and input on any subject affecting the state's economy that may be considered by the committee, including, but not limited to, petroleum supply and pricing, and housing. Such advisory committees may consist of up to 11 members each, who broadly represent economic, consumer, and other interests concerned with the subject matter assigned to such committees. The members of the advisory committees shall be appointed by, and serve at the pleasure of, the chairman of the committee. Members of the advisory committees shall receive no compensation nor reimbursement for travel or other expenses. The committee may expend any funds heretofore or hereafter made available and further allocations may be made by the Joint Rules Committee; provided, that in accordance with Joint Rule 36.8, any expenditure of funds shall be made in compliance with policies set forth by the Joint Rules Committee and shall be subject to the approval of the Joint Rules Committee.

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#### RESOLUTION CHAPTER 5

Assembly Concurrent Resolution No. 91—Relative to the San Diego-Coronado Bridge.

[Filed with Secretary of State February 19, 1980.]

WHEREAS, The San Diego Council American Youth Hostels, Inc., plans to sponsor a bicycle ride on Bicycle Awareness Day, February

24, 1980, for the purpose of raising funds to further the purposes of the council; and

WHEREAS, In order to stimulate interest in this event, the council desires to include the San Diego-Coronado Bridge as part of the course over which participants will ride; and

WHEREAS, It appears to be in the best interests of the people of the Cities of San Diego and Coronado, and of the State of California as a whole, to encourage activities such as those carried on by the council; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Department of Transportation is hereby requested to permit the use of the San Diego-Coronado Bridge on February 24, 1980, by the coning of necessary lanes, for the period of time necessary for its use as part of the course for a bicycle ride sponsored by the San Diego Council American Youth Hostels, Inc., if the department is requested to do so by the Cities of San Diego and Coronado in accordance with Sections 21101 and 21104 of the Vehicle Code; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the Secretary of the Business and Transportation Agency and to the Director of Transportation.

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## RESOLUTION CHAPTER 6

Senate Concurrent Resolution No. 40—Relative to primary health service hospitals.

[Filed with Secretary of State February 20, 1980 ]

WHEREAS, In 1978, the Legislature enacted Chapter 1332 of the Statutes of 1978 (SB 1814) which was designed to help preserve the state's small rural hospitals; and

WHEREAS, The Legislature has found that the closure of these hospitals would represent a direct threat to the health and well-being of both the resident and tourist populations served by these facilities; and

WHEREAS, Many small rural hospitals are experiencing severe financial difficulties brought about partially by the costs of compliance with government regulations and by underutilization; and

WHEREAS, Availability and accessibility to primary and preventive health services could be greatly improved through the diversification of the role of such hospitals and coordination with other health and human services resources in the hospital's service area; and

WHEREAS, It is the intent of the Legislature to create, for purposes of demonstration, and for those hospitals which meet the

criteria of a small rural hospital under Chapter 1332 of the Statutes of 1978, a new general acute care hospital designation known as the primary health service hospital; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature of the State of California strongly supports the application of the State Department of Health Services for a waiver of federal regulations necessary to implement Chapter 1332 of the Statutes of 1978 and thereby permit the diversification of the role of the state's small rural hospitals.

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### RESOLUTION CHAPTER 7

Senate Concurrent Resolution No. 49—Relative to the Canadian Government.

[Filed with Secretary of State February 20, 1980 ]

WHEREAS, The Canadian Embassy in Tehran provided sanctuary for three months to six United States Embassy personnel; and

WHEREAS, The Canadian Government, at a special Cabinet meeting, authorized the issuance of Canadian diplomatic passports to the Americans to aid them in their escape; and

WHEREAS, The six Americans were able to use these documents to fly out of Iran on regular commercial flights; and

WHEREAS, The Canadian Government has deemed it necessary to close their embassy in Iran and evacuate their embassy staff because they aided the Americans in escaping; and

WHEREAS, In the absence of the actions of the Canadian Government the six Americans would be still subject to the uncertain fate of the remaining 50 hostages; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Members express their commendations and appreciation, on behalf of the citizens of California, to the Canadian Government; and be it further

*Resolved,* That the Secretary of the Senate transmit a suitably prepared copy of this resolution to the Prime Minister of Canada.

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### RESOLUTION CHAPTER 8

Assembly Concurrent Resolution No. 62—Relative to pest infested trees in the state park system.

[Filed with Secretary of State February 22, 1980 ]

WHEREAS, Pest infestations in California have killed an estimated 45 million trees worth more than two billion dollars over the past

three years; and

WHEREAS, These infestations, particularly the bark beetle (*Ips* spp.), know no ownership boundaries and have infested timber on public and private lands alike; and

WHEREAS, An infected tree serves as a source of infection to other trees; and

WHEREAS, Entomologists and silviculturists generally agree that the most effective method of abating such an infestation is removal of the infected trees in a timely manner and before the insects can move into adjacent trees; and

WHEREAS, The citizens of the State of California have invested billions of dollars in the acquisition and development of lands for the state park system; and

WHEREAS, Significant infestations of bark beetles have developed in several units of the state park system, particularly Calaveras Big Trees State Park; and

WHEREAS, Many of the trees in these park units are now infested and will ultimately die, creating an esthetic eyesore, are a hazard to visitors to the park, and are a source of fire within the park; and

WHEREAS, The Department of Parks and Recreation has been reluctant to remove these infested trees, despite the fact that their removal will remove a source of future infestation, and revenue from the sale of these trees can significantly reduce the costs of removal; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Department of Parks and Recreation is directed to implement, in cooperation with the Department of Forestry, a program for removal of bark beetle (*Ips* spp.) infested trees within units of the state park system to the degree appropriate to reasonably eliminate the potential for future infestation; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the Director of Parks and Recreation and to the Director of Forestry.

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## RESOLUTION CHAPTER 9

Assembly Concurrent Resolution No. 92—Relative to Southern California's Second Urban Forest Run.

[Filed with Secretary of State February 26, 1980 ]

WHEREAS, There is an obligation to call the public's attention to the need for forestation in urban areas; and

WHEREAS, Citizen participation is one of the best ways to heighten public awareness; and

WHEREAS, People from all over southern California will gather

between eight and 10 o'clock, the morning of March 9, 1980, in honor of Arbor Day, for a 3.1 mile run on the Marina Freeway (State Highway Route 90) from the Slauson on ramp to the Lincoln Boulevard on ramp; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Department of Transportation is hereby requested to close the Marina Freeway (State Highway Route 90) from the Slauson on ramp to the Lincoln Boulevard on ramp in one direction only on Sunday, March 9, 1980, between the hours of 8:00 a.m. and 10:00 a.m. for the purpose of the running of Southern California's Second Urban Forest Run; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation.

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### RESOLUTION CHAPTER 10

Assembly Constitutional Amendment No. 30—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by adding subdivision (k) to Section 28 of Article XIII, relating to taxation of insurers.

[Filed with Secretary of State February 29, 1980]

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature of the State of California at its 1979-80 Regular Session commencing on the fourth day of December, 1978, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the state be amended by adding subdivision (k) to Section 28 of Article XIII thereof, to read:

(k) The Legislature, a majority of all the members elected to each of the two houses voting in favor thereof, may by law establish one or more insurance guarantee funds or associations with membership composed of insurers admitted to do business in this state for the purpose of paying claims against insolvent insurers. The amount of contribution by each insurer may be allowed as a deductible offset against the annual gross premium tax imposed by this section.

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### RESOLUTION CHAPTER 11

Assembly Concurrent Resolution No. 98—Relative to plastic pipe.

[Filed with Secretary of State February 29, 1980]

WHEREAS, By their very nature, building codes set in motion forces as enduring as the structures constructed in accordance with them, and

WHEREAS, History is filled with instances of the use of apparently common materials such as lead or asbestos, which were subsequently determined to carry sizable health risks, and

WHEREAS, Considerable controversy currently exists as to the health and fire safety properties of plastic pipe in construction applications, now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Commission of Housing and Community Development is requested to halt current moves to alter the State Building Code to allow the extensive use of plastic pipe in construction until the following conditions are satisfied:

(a) It has received a documented, written report from the Toxic Substances Hazard Alert System of the State Department of Health Services on the safety of such use, including, but not limited to, a consideration of the safety of Acrylonitrile, Methyl-ethyl-ketone, Methyl-butyl-ketone, Dimethyl formamide, Cyclo-hexanone, Tetrahydrofuran, Polyvinylchloride, as well as any other chemicals found in the cements and primers used for the installation of plastic pipes. Such report shall include an evaluation not only of the safety of the individual chemicals found in the cements and primers used for installation of plastic pipes, but also of the safety of such chemicals when used in conjunction with each other to produce such cements and primers.

(b) It has received a documented, written report prepared by the State Fire Marshal on the potential flammability of plastic pipe and the fire hazards associated with its use, in which the State Fire Marshal analyzes the potential fire hazards in residential, commercial and industrial installations of plastic pipe and evaluates the need for specialized firefighting techniques or equipment when fighting fires involving plastic pipe. The State Fire Marshal, in preparing such report, need not perform original testing if such testing cannot be completed by the deadline set out in subdivision (c).

(c) The reports required by subdivisions (a) and (b) shall be published and forwarded to the Commission of Housing and Community Development by no later than May 1, 1980; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the Commission of Housing and Community Development and the State Fire Marshal.

## RESOLUTION CHAPTER 12

## Senate Concurrent Resolution No. 56—Relative to the Joint Rules.

[Filed with Secretary of State March 5, 1980]

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Temporary Joint Rules of the Senate and Assembly for the 1979–80 Regular Session be amended, as follows:

First—That Rule 50.5 is amended to read:

50.5. (a) As used in these rules, “day” means a calendar day, unless otherwise specified.

(b) When the date of a deadline, recess, other requirement, or circumstances, falls on a Saturday, Sunday, or Monday that is a holiday, except September 1, 1980, the date shall be deemed to refer to the preceding Friday, except, where January 1 is a Sunday, the date shall be deemed to refer to the following Tuesday. When such a date falls on a holiday on a weekday other than a Monday, the date shall be deemed to refer to the preceding day.

Second—That Rule 51 is amended to read:

51. (a) The Legislature shall observe the following calendar during the first year of the regular session:

(1) Organizational Recess—The Legislature shall meet on the first Monday in December following the general election to organize. Thereafter, each house shall be in recess from such time as it determines, but not later than the following Friday until the first Monday in January, except when the first Monday is January 1, in which case, the following Tuesday.

(2) Easter Recess—The Legislature shall be in recess from the 10th day prior to Easter until the Monday after Easter.

(3) Summer Recess—The Legislature shall be in recess from July 20 until August 20. This recess shall not commence until the Budget Bill is enacted.

(4) Interim Study Recess—The Legislature shall be in recess from September 15 until the first Monday in January, except when the first Monday is January 1, in which case, the following Tuesday.

(b) The Legislature shall observe the following calendar for the remainder of the legislative session:

(1) Easter Recess—The Legislature shall be in recess from the 10th day prior to Easter until the Monday after Easter.

(2) Summer Recess—The Legislature shall be in recess from July 11 until August 18. This recess shall not commence until the Budget Bill is enacted.

(3) Final Recess—The Legislature shall be in recess on September 1 until adjournment sine die on November 30.

(c) Recesses shall be from the hour of adjournment on the day specified to reconvene at the time designated by the respective houses.

(d) The recesses specified by this rule shall be designated as joint recesses.

Third—That Rule 60 is amended to read:

60. (a) No standing committee or subcommittee thereof may take action on a bill at any hearing held outside of Sacramento.

(b) The fiscal committees may hear and act upon bills during the summer recess in the even-numbered year. Any other committee may hear the subject matter of a bill during a period of recess. Four days' notice in the daily file is required prior to any such hearing.

(c) No bill may be acted upon by a committee during a joint recess, except as provided in subdivision (b).

Fourth—That Rule 61 is amended to read:

61. The following deadlines shall be observed by the standing committees of the Assembly and Senate:

(a) Odd-numbered year:

(1) Between May 4 and September 16, the Secretary of the Senate and the Chief Clerk shall not receive from the fiscal committees of their respective houses a report concerning bills introduced in and requiring further actions by that house, unless they were passed by a policy committee on or before May 4. Such a report may be received from a fiscal committee on or before June 22, however, if after May 4 the Legislative Counsel's digest of the bill is changed to indicate reference to fiscal committee.

(2) Between May 25 and September 16, the Secretary of the Senate and the Chief Clerk shall not receive a report from a policy committee requiring further action on a bill that was introduced in their respective houses.

(3) Between June 22 and September 16, the Secretary of the Senate and the Chief Clerk shall not receive a report from the fiscal committees concerning bills introduced in their respective houses.

(4) Between June 29 and September 16, no bill shall be passed by the house in which it was introduced, other than on concurrence in amendments adopted in the other house.

(5) No bill introduced in the other house shall be set for hearing in the policy committee of the second house unless, no later than July 6, the author files a request for hearing with the chairman of the policy committee.

(6) Between July 20 and September 16, the Secretary of the Senate and the Chief Clerk shall not receive from the fiscal committees of their respective houses a report concerning bills requiring further action that were introduced in the other house, unless they were passed by a policy committee on or before July 20. Such a report may be received from a fiscal committee on or before August 24, however, if after July 20 the Legislative Counsel's digest of the bill is changed to indicate reference to fiscal committee.

(7) Between June 15 and June 25, and between August 24 and September 3, no committee other than a fiscal committee shall meet for the purpose of hearing any bill.

(8) Between June 22 and July 2, and after August 31, no committee

shall meet for the purpose of hearing any bill.

(9) Between August 31 and September 16, the Secretary of the Senate and the Chief Clerk shall not receive a report from any committee requiring further action by their respective houses.

(b) Even-numbered year:

(1) After January 16, the Secretary of the Senate and the Chief Clerk shall not receive a report from a policy committee concerning bills introduced in their respective houses during the odd-numbered year which require further consideration by the fiscal committee. Such a report may be received from a policy committee on or before January 23, however, if the Legislative Counsel's digest of the bill is changed to indicate reference to fiscal committee.

(2) After January 23, the Secretary of the Senate and the Chief Clerk shall not receive a report from any committee concerning bills introduced in their respective houses during the odd-numbered year requiring further action in that house.

(3) After April 11, the Secretary of the Senate and the Chief Clerk shall not receive a report from a policy committee concerning a bill introduced in their respective houses requiring further consideration by the fiscal committee of that house. Such a report may be received from a policy committee on or before May 16, however, if the Legislative Counsel's digest of the bill is changed to indicate reference to fiscal committee.

(4) After May 2, the Secretary of the Senate and the Chief Clerk shall not receive a report from a policy committee concerning a bill introduced in their respective houses and requiring further action in that house.

(5) After May 16, the Secretary of the Senate and the Chief Clerk shall not receive a report from the fiscal committees concerning bills introduced in and requiring further action by that house.

(6) After May 23, neither house shall pass bills introduced in that house.

(7) No bill introduced in the other house shall be set for hearing in the policy committee of the second house unless, no later than May 30, the author files a request for hearing with the chairman of the policy committee.

(8) After June 13, the Secretary of the Senate and the Chief Clerk shall not receive a report from a policy committee concerning bills introduced in the other house requiring further consideration by the fiscal committees. Such a report may be received from a policy committee on or before July 11, however, if the Legislative Counsel's digest of the bill is changed to indicate reference to fiscal committee.

(9) After July 3, the Secretary of the Senate and the Chief Clerk shall not receive a report from a policy committee requiring further action on a bill.

(10) Between May 9, and May 19, and after July 3, no committee other than a fiscal committee shall meet for the purpose of hearing any bill.

(11) After August 18, the Secretary of the Senate and the Chief

Clerk shall not receive a report from a fiscal committee requiring further action on a bill.

(12) Between May 16 and May 26, and after August 15, no committee shall meet for the purpose of hearing any bill.

(c) If a bill is acted upon in committee before the relevant deadline and the committee votes to report the bill out with amendments that have not at the time of the vote been prepared by the Legislative Counsel, the Secretary of the Senate and the Chief Clerk may subsequently receive a report at any time within two legislative days after the deadline recommending the bill for passage or for rereferral together with the amendments.

(d) Bills in the house of origin not acted upon during the odd-numbered year as a result of the deadlines contained in paragraph (a) may be acted upon when the Legislature reconvenes after the interim study joint recess, or at any time the Legislature is recalled from the interim study joint recess.

(e) The deadlines imposed by this rule shall not apply to the Rules Committees of the respective houses.

(f) The deadlines imposed by this rule shall not apply in instances where a bill is referred to committee under Joint Rule 26.5.

(g) Except as provided in subparagraphs (a) (8) and (b) (12), the deadlines imposed by this rule shall not apply to constitutional amendments or those bills which go into immediate effect pursuant to subdivision (c) of Section 8 of Article IV of the Constitution of California.

(h) This rule may be suspended as to any particular bill by approval of the Rules Committee and two-thirds vote of the members of the house.

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## RESOLUTION CHAPTER 13

SCR No. 45—Relative to Edward “Ted” Craig.

[Filed with Secretary of State March 14, 1980 ]

WHEREAS, It is with great sadness that the Members of the Senate of the State of California have learned of the death on August 3, 1979, of Edward “Ted” Craig, the former Speaker of the Assembly of the State of California; and

WHEREAS, Ted Craig was born in Los Angeles on November 12, 1896, but spent his early years in Olinda, California, where he lived until 1912 when his family moved to Brea, California; and

WHEREAS, It was the people of Brea who in 1928 elected Ted Craig to membership on the City Council, thus starting a long and illustrious career in the political arena for the personable young former oil tool machinist; and

WHEREAS, Recognizing ability, the voters of Orange County that

same year elected the popular and astute city councilman from Brea to represent that county in the Assembly of the State of California, and so in January of 1929, an individual who was destined to become one of the most respected and colorful men in state public life took his seat in the Assembly Chamber; and

WHEREAS, In 1935, his colleagues in the Assembly elected Ted Craig to the Speakership, a position he filled with pride, dignity, and utmost fairness; and

WHEREAS, As Speaker of the Assembly his credits were many, but Ted Craig was most proud of the fact that he played a key part in the switch by the Assembly to push button voting from the voice vote system and that he served as a member of the Board of Regents of the University of California; and

WHEREAS, Ted Craig left elective office to become a lobbyist for Pacific Lighting, a position he held for 28 years, during which time he won the respect and admiration of the "Third House" for successfully lobbying a bill through Congress in 1953 to exempt the gas company and the El Paso Natural Gas Pipeline from the requirements of being a common carrier; and

WHEREAS, During the past 15 years, Ted Craig, who was considered by all who knew him as a man for all generations, was employed as Orange County's chief lobbyist in Sacramento and was addressed by almost every official, legislator, and clerk as "Mr. Speaker"; and

WHEREAS, Despite his long standing love affair with Sacramento, Ted Craig always maintained his home in the Brea-Olinda area of Orange County, the place to which he retreated every week; and

WHEREAS, With no thought to retirement throughout his long and full life, Ted Craig gave selflessly of himself towards serving the people of this state and in particular the people of his beloved Orange County; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Members express their deepest sympathy at the loss of their long-time colleague Ted Craig; and be it further

*Resolved,* That the Secretary of the Senate transmit a suitably prepared copy of this resolution to Edward Craig's son, Thomas Craig.

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#### RESOLUTION CHAPTER 14

Assembly Concurrent Resolution No. 85—Relative to Yucaipa Regional Park.

[Filed with Secretary of State March 28, 1980.]

WHEREAS, James A. Holden, a distinguished California water leader and member of the Board of Directors of the San Bernardino Valley Municipal Water District for over 12 years, passed away unexpectedly on June 19, 1979; and

WHEREAS, First elected to the Board of Directors in 1966, he was returned for successive terms in 1970, 1974, and 1978, serving as the district's treasurer from 1973 to 1976 and as its vice president thereafter, as well as chairman of the budget and finance committee and the personnel committee for many years prior to his death; and

WHEREAS, Director Holden's conscientious attention to his duties, his outstanding abilities, and his wise counsel made him a leader in the water affairs of the community, as well as an influential member of the many statewide and national water associations in which he participated; and

WHEREAS, Mr. Holden also rendered distinguished community service in numerous other capacities, having served as president of the Yucaipa Board of Realtors and the Yucaipa Chamber of Commerce, as a leading member of American Legion Post 246 and the Optimists Club, and as a pioneer in the work of the Yucaipa Little League; and

WHEREAS, It was Mr. Holden's untiring efforts on behalf of the Yucaipa Regional Park and Reservoir project which served to get this vital project under construction and on its way toward completion; and

WHEREAS, The naming of a water storage and recreational lake of the Yucaipa Regional Park as Holden Lake would be a fitting tribute to the memory of this outstanding Californian who was greatly loved and respected by all who knew him; now, therefore, be it

*Resolved, by the Assembly of the State of California, the Senate thereof concurring,* That the County of San Bernardino and the San Bernardino Valley Municipal Water District are requested to honor the memory of James A. Holden by naming the water storage and recreational lake of the Yucaipa Regional Park, currently known as Lake No. 2 or the middle of the three lakes, as Holden Lake; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the Board of Supervisors of San Bernardino and the Board of Directors of the San Bernardino Valley Municipal Water District.

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#### RESOLUTION CHAPTER 15

Assembly Concurrent Resolution No. 108—Relative to the Ford Motor Company.

[Filed with Secretary of State March 28, 1980.]

WHEREAS, The United States is currently beset with spiraling inflation and other symptoms of economic uncertainty; and

WHEREAS, The prospect of increasing unemployment rates is a specter that casts even a darker shadow over the economy of our country; and

WHEREAS, It is in the national interest that all citizens cast off old attitudes and demonstrate once again that Americans are a dynamic, flexible, people; and

WHEREAS, American industry should set an example of how adaptability can maintain productivity; and

WHEREAS, It has come to the attention of the Members of the Legislature that the Ford Motor Company has announced the closure of its Pico Rivera Assembly Plant, and the layoff of thousands of highly skilled workers; and

WHEREAS, The closure of a major automotive facility that could be retooled to meet the need of Californians for smaller, fuel efficient automobiles represents not only a waste of human resources but the failure to adapt to changing priorities and to the needs of California motorists; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Ford Motor Company is urged to reconsider its decision to close its Pico Rivera Assembly Plant and to retool for the manufacture of a smaller automobile; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit a copy of this resolution to the Ford Motor Company.

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## RESOLUTION CHAPTER 16

Assembly Joint Resolution No. 53—Relative to indexing federal income taxes.

[Filed with Secretary of State April 18, 1980 ]

WHEREAS, The growth in the rate of inflation has resulted in a substantial increase in federal income taxes, which does not reflect increases in real income; and

WHEREAS, The cost of living as reflected by the United States Consumer Price Index has increased significantly each year; and

WHEREAS, Federal income taxes as a percent of personal income have risen from 9.7 percent in 1976 to an estimated 11.3 percent in 1980, reflecting the rapid growth in tax collections during this inflationary period; and

WHEREAS, The Legislature of the State of California has enacted full indexing of the state personal income tax thereby preventing inflation from moving each taxpayer into a higher state income tax bracket; and

WHEREAS, The impact of this adjustment of the state income tax will be partially reduced by the loss of this amount as a deduction from the federal tax, further increasing federal income tax liability; and

WHEREAS, The federal income tax brackets have not been adjusted to eliminate the inequitable automatic tax increase resulting from inflation; now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorialize the President and the Congress of the United States to provide for the annual recomputation of federal income taxes and adjustment of such taxes according to the rate of inflation; and be it further

*Resolved,* That California shall receive a reduction in federal aid which is proportionate to the loss of federal income tax revenue derived from California; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 17

Assembly Joint Resolution No. 76—Relative to salmon.

[Filed with Secretary of State April 18, 1980 ]

WHEREAS, The salmon fisheries of California are important for sport and commercial fishing, while also providing employment and a valuable source of food for both local consumption and for export; and

WHEREAS, In 1979, the California catch of chinook salmon by both commercial and sport fishermen was one of the best in recent history; and

WHEREAS, The spawning escapement of salmon in most California rivers reached or exceeded goals set for those river systems; and

WHEREAS, Only one California river system, the Klamath-Trinity, had depressed fish runs which were caused by the Department of Interior diverting water and permitting an illegal in-river gill net fishery on the Klamath River; and

WHEREAS, Salmon fishing for export and commercial purposes is subject to the vagaries of weather as well as numerous oceanic conditions and, therefore, requires seasons of a sufficient duration to insure harvest; and

WHEREAS, Severe restrictions have been proposed by the Pacific

Regional Fishery Management Council for the 1980 California commercial salmon season, which restrictions have the potential for economic ruin to fishermen and the industries dependent upon the salmon fishery; and

WHEREAS, Such restrictions appear uncalled for and are indicative of a lack of understanding of California fisheries by the Pacific Regional Fishery Management Council which has only three voting members from California out of a total of 13 voting members; now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California hereby memorializes the Secretary of Commerce to reject the Pacific Regional Fishery Management Council's proposed 1980 salmon regulations for California and to adopt instead regulations which reflect a balance between economic and biological needs and which will protect both the salmon resource and the fishermen and industries dependent upon that resource; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit a copy of this resolution to the Secretary of Commerce.

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#### RESOLUTION CHAPTER 18

Assembly Concurrent Resolution No. 130—Relative to a State Day of Remembrance.

[Filed with Secretary of State April 18, 1980]

WHEREAS, The State of California has repeatedly gone on record in support of human rights around the world; and

WHEREAS, The genocide of Armenians in Turkey is a well documented fact with 1,500,000 Armenians massacred during the years 1915 to 1918 alone; and

WHEREAS, This genocide has been consistently denied by the Turkish government; and

WHEREAS, The Armenians in some countries must continue to endure daily acts of oppression, such as denial of their basic human rights, confiscation of their churches and schools, and punishment for speaking their native language openly; and

WHEREAS, April 24, 1915, is the date historians have marked as the beginning of the massacre and consequently this day should be a day of reflection by all Armenians and other Americans; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature hereby designates April 24, 1980, as "State Day of Remembrance" and requests the Governor of California to issue a proclamation calling upon the people of the State of California to observe such day as a day of remembrance for all the

victims of genocide, especially those of Armenian ancestry who succumbed to the genocide perpetrated in 1915, and in whose memory this date is commemorated by all Armenians and their friends throughout the world; and be it further

*Resolved*, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Governor of California.

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## RESOLUTION CHAPTER 19

Assembly Joint Resolution No. 59—Relative to the earthquake in the Azores.

[Filed with Secretary of State May 2, 1980 ]

WHEREAS, The island territory of Portugal known as the Azores experienced a severe earthquake on January 1, 1980, registering at 7.0 on the Richter Scale; and

WHEREAS, Casualties resulting from the earthquake included over 100 persons dead and thousands more injured; and

WHEREAS, The earthquake has caused such damage as to leave thousands of persons homeless, without shelter and food, and with no immediate recourse for the provision of shelter; and

WHEREAS, The Portuguese community in the United States, and especially in California, has collected and transported to Portugal thousands of tons of relief supplies, such as food, clothing and other life-supporting goods for relief of earthquake victims; and

WHEREAS, The same Portuguese community has offered additional assistance to those earthquake victim refugees who seek refuge in the United States; and

WHEREAS, The Portuguese community of the State of California is to be commended for its generous demonstration of concern and support of the victims of the Azorean earthquake; now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the President and Congress of the United States and the Department of State and the Immigration and Naturalization Service to remove the immigration quota restrictions for victims of the Azorean earthquake on a temporary basis; and be it further

*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of State, to the Director of the Immigration and Naturalization Service, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

## RESOLUTION CHAPTER 20

Assembly Joint Resolution No. 62—Relative to stamp issuance honoring senior citizens.

[Filed with Secretary of State May 2, 1980 ]

WHEREAS, The significant contribution which senior citizens of our nation have made and are continuing to make are of incalculable value to our society; and

WHEREAS, Under the inspired leadership of one of our nation's most outstanding senior citizens, Congressman Claude Pepper, an effort is being made to bring about the issuance by the United States Postal Service of a commemorative stamp honoring our senior citizens in May 1981, in conjunction with a White House Conference on Aging to be held in November 1981; and therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California heartily applauds the actions of Congressman Pepper; and be it further

*Resolved,* That the Legislature of the State of California strongly urges United States Postmaster General, Mr. William F. Bolger to issue, in May 1981, a commemorative stamp honoring one of our nation's most important natural resources, its senior citizens; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the Postmaster General of the United States, and to Congressman Claude Pepper.

## RESOLUTION CHAPTER 21

Senate Concurrent Resolution No. 36—Relative to the allocation of Title XX funds.

[Filed with Secretary of State May 2, 1980 ]

WHEREAS, The Congress of the United States has, since 1972, placed a permanent annual federal spending ceiling of \$2.5 billion on federal funds for social services allocated pursuant to Title XX (42 U.S.C.A. 1397); and

WHEREAS, The temporary augmentation which increased the federal social services spending limit to \$2.9 billion for the 1979 fiscal year will expire on September 30, 1979, which will result in a reversion to the \$2.5 billion permanent ceiling beginning with the 1980 fiscal year; and

WHEREAS, The federal social services funding limitations have consistently failed to recognize the actual annual increases in the cost-of-living or to accommodate national monetary inflation trends; and

WHEREAS, The states and local governments will be forced to curtail social services to needy children and adults unless federal social services funding augmentation is adequately increased on a permanent basis; and

WHEREAS, Through the enactment of Title XX (42 U.S.C.A. 1397), the Congress of the United States sought to encourage each state, as far as practicable, to furnish services directed at achieving various goals of social services, and to provide each state with financial assistance in order to achieve these goals; and

WHEREAS, The Congress of the United States has, after eight years of open-ended funding placed a closed-end ceiling on such federal social services funding; and

WHEREAS, The State of California initially allocated Title XX funds to counties based upon prior expenditures and has continued such an allocation, using 1975-76 as the base year; and

WHEREAS, Such an allocation has resulted in an inequitable distribution of federal funds allocated pursuant to Title XX for social services, favoring those counties which already have expensive services in existence and disfavoring those counties with more modest program investments during the base year; and

WHEREAS, Inflation and the passage of Proposition 13 on the June 6, 1978 primary election ballot, has made it difficult for counties to provide matching funds; and

WHEREAS, Steps must be taken in order to preserve a minimum level of social services, maximizing limited financial resources and distributing funds according to greatest need; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring*, That the President of the United States and the Congress of the United States are requested to take such action as is necessary to increase the permanent federal expenditure augmentation for funds allocated pursuant to Title XX for social services for the 1980 fiscal year and to provide thereafter, an annual adjustment of that augmentation and the appropriations to reflect changes in the cost of living; and be it further

*Resolved*, That the Director of Social Services is directed to work with the State Department of Finance and the California Welfare Directors Association to develop a formula for the equitable allocation of any additional federal funds granted to the state by Title XX for counties, utilizing such indicators as actual need of each county, the welfare population of the county, general population and other relevant factors; and be it further

*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Secretary of State and the presiding officer of each house of the state legislature of each state of the United States, to the State Department of Social Services, to the Director of Finance and to the California Welfare Directors Association.

## RESOLUTION CHAPTER 22

Senate Concurrent Resolution No. 69—Relative to California Small Business Week.

[Filed with Secretary of State May 5, 1980.]

WHEREAS, The President of the United States of America, by proclamation, has designated the week of May 11, 1980, as Small Business Week, in special tribute to the outstanding contributions of the small businessmen and businesswomen of this nation; and

WHEREAS, Of the millions of businesses in the United States today, the majority of them are small businesses, which together provide employment for over half the business labor force, account for nearly half the gross business product, and create the backbone of the American economy; and

WHEREAS, Through the outstanding productivity of small businesses, a multitude of opportunities for the employment of the labor force is created annually, and through the industry of small businesses many innovative business practices are developed and technological advancements are made, which are used to expand the economy as a whole; and

WHEREAS, It is the entrepreneurship, productivity, and industry of small businessmen and businesswomen that provide the real impetus to the American free enterprise system, and that create the opportunities for further economic advancement; and

WHEREAS, The expansion of the California economy and the viability of the state's economic health is due in large measure to the vital role that small businesses have played, and continue to play, in the growth and development of this great state; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That Governor Edmund G. Brown, Jr., is hereby requested, in conjunction with the national designation thereof, to proclaim the week of May 11, 1980, as California Small Business Week, in special recognition of the contributions that the small businessmen and businesswomen have made to our great state; and be it further

*Resolved,* That the Secretary of the Senate transmit a copy of this resolution to the Governor.

## RESOLUTION CHAPTER 23

Assembly Joint Resolution No. 55—Relative to federal fuel tax.

[Filed with Secretary of State May 6, 1980 ]

WHEREAS, Two bills have been recently introduced in Congress by the Honorable Mario Biaggi (HR 4310), and by Senator Thomas Eagleton (SB 1957), which would serve to return to the states revenues derived from the federal tax of fuel used to power motorboats; and

WHEREAS, These revenues, once returned to the states, would be dedicated to the improvement of boating facilities and safety programs; and

WHEREAS, The enactment of this or similar legislation would serve to redress the inequity resulting from the use of revenues generated by taxes on boaters for the support of programs unrelated to boating; now, therefore, be it

*Resolved by the Assembly and the Senate of the State of California jointly,* That the Congress of the United States of America is hereby memorialized to enact legislation which would return to the several states, for their use in supporting boating-related programs and other programs related to boaters, the federal tax on fuel used to power motorboats; and be it further

*Resolved,* That the Chief Clerk of the Assembly is hereby directed to transmit copies of this resolution to the Speaker of the House of Representatives, to the President of the Senate of the United States, to the Honorable Mario Biaggi, to Senator Thomas Eagleton, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 24

Assembly Concurrent Resolution No. 101—Relative to the California Law Revision Commission.

[Filed with Secretary of State May 16, 1980.]

WHEREAS, Section 10335 of the Government Code provides that the California Law Revision Commission shall file a report at each regular session of the Legislature which shall contain a calendar of topics selected by it for study, including a list of the studies in progress; and

WHEREAS, The commission, in its annual report covering its activities for 1979, lists the following topics, all of which the Legislature has previously authorized or directed the commission to study, as studies in progress:

### Topics Under Active Consideration

(1) Whether the law relating to creditors' remedies including, but not limited to, attachment, garnishment, execution, repossession of property (including the claim and delivery statute, self-help

repossession of property, and the Commercial Code repossession of property provisions), civil arrest, confession of judgment procedures, default judgment procedures, enforcement of judgments, the right of redemption, procedures under private power of sale in a trust deed or mortgage, possessory and nonpossessory liens, and related matters should be revised;

(2) Whether the law relating to custody of children, adoption, guardianship, freedom from parental custody and control, and related matters should be revised;

(3) Whether the law relating to eminent domain should be revised;

(4) Whether a Marketable Title Act should be enacted in California and whether the law relating to covenants and servitudes relating to land, and the law relating to nominal, remote, and obsolete covenants, conditions, and restrictions on land use, should be revised;

(5) Whether the law relating to possibilities of reverter and powers of termination should be revised;

(6) Whether Section 1464 of the Civil Code should be revised or repealed;

(7) Whether the law relating to community property should be revised;

(8) Whether the law relating to quiet title actions should be revised;

(9) Whether the law relating to the abandonment or vacation of public streets and highways by cities, counties, and the state should be revised;

(10) Whether the Evidence Code should be revised.

#### Other Topics Authorized for Study

(1) Whether the law relating to the award of prejudgment interest in civil actions and related matters should be revised;

(2) Whether the law relating to class actions should be revised;

(3) Whether the law relating to offers of compromise should be revised;

(4) Whether the law relating to discovery in civil cases should be revised;

(5) Whether the law relating to involuntary dismissal for lack of prosecution should be revised;

(6) Whether the law relating to the rights and disabilities of minors and incompetent persons should be revised.

#### Topics Continued on Calendar for Further Study

(1) Whether the law relating to arbitration should be revised;

(2) Whether the law relating to the escheat of property and the disposition of unclaimed or abandoned property should be revised;

(3) Whether the law relating to suit by and against partnerships

and other unincorporated associations should be revised and whether the law relating to the liability of such associations and their members should be revised;

(4) Whether the law relating to partition should be revised;

(5) Whether the law relating to modification of contracts should be revised;

(6) Whether the law relating to sovereign or governmental immunity in California should be revised;

(7) Whether the decisional, statutory, and constitutional rules governing the liability of public entities for inverse condemnation should be revised (including, but not limited to, liability for damages resulting from flood control projects) and whether the law relating to the liability of private persons under similar circumstances should be revised;

(8) Whether the law relating to the rights and duties attendant upon termination or abandonment of a lease should be revised;

(9) Whether the law relating to liquidated damages in contracts generally, and particularly in leases, should be revised;

(10) Whether the parole evidence rule should be revised;

(11) Whether the law relating to powers of appointment should be revised; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature approves the topics listed above as studies in progress for continued study by the California Law Revision Commission; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit a copy of this resolution to the California Law Revision Commission.

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## RESOLUTION CHAPTER 25

Assembly Concurrent Resolution No. 142—Relative to senior citizens.

[Filed with Secretary of State May 16, 1980.]

WHEREAS, Our senior citizens are one of our most important yet almost untapped natural resources; and

WHEREAS, The nation has gradually begun to realize the contributions which senior citizens have made to our society; and

WHEREAS, One of the greatest necessities which enables our senior citizens to more fully enjoy the later years is the presence of health services specifically addressed to the needs of the senior population; and

WHEREAS, The President of the United States has proclaimed that in accordance with a tradition dating back to 1963, May 1980 shall be designated as Older Americans Month; and

WHEREAS, The President has further proclaimed that the theme

of Older Americans Month shall be Better Health Through Better Health Care; and

WHEREAS, The President has further proclaimed that the citizenry of our nation should join in the activities which mark this month; and

WHEREAS, The Legislature of this state has always supported efforts to assure that senior citizens are allowed to enjoy dignified and productive lives; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature of the State of California hereby designates May 1980 as Older Americans Month in honor of older Americans; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President of the United States, the Governor, the Director of the Department of Aging, the chairperson of the California Commission on Aging, and Senior Citizens Today.

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## RESOLUTION CHAPTER 26

Assembly Joint Resolution No. 50—Relative to wine.

[Filed with Secretary of State May 16, 1980 ]

WHEREAS, The California wine industry is an important element in California agriculture and the California economy; and

WHEREAS, Even with the increasing reputation for quality and value that California wines enjoy among wine-knowledgeable consumers around the world, California wines are effectively precluded from most foreign markets by a pervasive and complex system of tariff and nontariff barriers; and

WHEREAS, Foreign wine moves freely in the United States market, subject only to the payment of a low import duty and payment of state and federal excise taxes at the same rate paid by California wine, such easy accessibility enjoyed by foreign wines to the American market in direct contrast to the export position of the California wine industry; and

WHEREAS, In 1960, California wineries produced 79.0% of all wine sold in the United States, but in 1978, California's share of the American market had been reduced to 68.5% which diminution, if continued or accelerated, will have an extremely serious adverse impact on the California wine industry; and

WHEREAS, The California wine industry is therefore faced with the prospect of increasing loss of market share to imported wines at home, while at the same time facing enormously restrictive tariff and nontariff barriers to the sale of its own wine abroad imposed by virtually all of those foreign governments whose wine industries profit so generously in the American marketplace; and

WHEREAS, The California winegrower seeks only reciprocity of treatment, desiring to work and create in an environment where California wines compete with other fine wines of the world to gain their fair share of consumer support; and

WHEREAS, The European Economic Community requires a separate permit for each shipment of wine from most nonmember nations, including the United States, but permits any member nation to suspend imports at any time by causing such a permit not to be issued, thereby retaining an absolute embargo power over third-country wines; and

WHEREAS, The EEC imposes duty surcharges through the reference price system allowing the community to control the minimum price at which imported wine can be sold within the member nations; and

WHEREAS, The EEC has negotiated lower tariffs for Algeria, Tunisia, Morocco, Turkey, and Greece than are imposed on U.S. imports, as well as certain other exceptions for other countries; and

WHEREAS, Many EEC member countries have well-funded export missions in foreign countries (e.g., the French, Italian, and West German governments all have wine promotion programs in the U.S. which include heavy media advertising and widely publicized wine tasting events) as well as a community system of storage, distilling, and export subsidies; and

WHEREAS, The EEC assesses substantially higher tariffs against U.S. wines than the U.S. assesses against wines of the community; and

WHEREAS, Japan, which represents an attractive potential market, has an extremely high tariff (presently \$4.91 per gallon versus \$0.375 per gallon in the United States for table wines and \$0.25 per gallon for sake); and

WHEREAS, The above enumerated problems represent only a partial listing of barriers to foreign markets faced by the California wine industry; now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the members request the Congress to pay particular attention to all tariff and nontariff barriers which may tend to inhibit the open and free competition of United States produced wines in all foreign markets when the President reports to the Congress the results of his review of such barriers, not later than January 1, 1982, pursuant to subdivision (a) of Section 584 of the Distilled Spirits Tax Revision Act of 1979; and be it further

*Resolved,* That the members request the Congress to urge upon the President the importance of reciprocity of all tariff and nontariff barriers affecting United States produced wines abroad, and to further urge upon the President the necessity to eliminate or reduce such barriers to the sale of United States produced wines, pursuant to his authority under the Trade Act of 1974 and subdivision (c) of Section 584 of the Distilled Spirits Tax Revision Act of 1979; and be it further

*Resolved,* That the members request the Congress to urge upon

the President the necessity to take whatever action is necessary to assure substantial reciprocity of all tariff and nontariff trade barriers regarding the sale of wine exported from and imported to the United States should an attempt to negotiate the removal or reduction of such barriers fail; and be it further

*Resolved*, That the members request the President of the United States to direct United States government employees overseas including ambassadors, consuls, agricultural attachés, and others to use, promote, and serve California and other American wines at official functions and dinners and whenever it might be appropriate; and be it further

*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to President Carter, the President's Special Representative for Trade Negotiations, the Clerk of the House of Representatives, the Secretary of the United States Senate, Senator Alan Cranston, Senator S.I. Hayakawa, to each Representative from California in the Congress of the United States, the Bureau of Alcohol, Tobacco and Firearms, and the U.S. Customs Service.

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#### RESOLUTION CHAPTER 27

Assembly Joint Resolution No. 61—Relative to firecrackers and bottle rockets.

[Filed with Secretary of State May 16, 1980.]

WHEREAS, The California Fire Incident Reporting System indicates that in 1979, 50 percent of the dollar loss from fires caused by fireworks, amounting to approximately \$2.5 million, occurred from fires started by bottle rockets; and

WHEREAS, The California Burn Registry indicates that 54 percent of all reported injuries caused by fireworks in 1978, and 34 percent of all reported injuries caused by fireworks in 1979, were caused by firecrackers; and

WHEREAS, The sale and use of bottle rockets and firecrackers have been prohibited in California since 1939; and

WHEREAS, Bottle rockets and firecrackers are legal in some states; and

WHEREAS, The quantity of bottle rockets and firecrackers illegally imported into California has greatly increased in recent years; and

WHEREAS, Most of the bottle rockets and firecrackers are entering California illegally from other states, which are also having difficulty in controlling dangerous fireworks; and

WHEREAS, The State Fire Marshal has confiscated over 1,000,000 items of illegal fireworks worth over two hundred fifty thousand dollars (\$250,000) during each of the last two years; and

WHEREAS, Efforts to stop the illegal traffic of bottle rockets and firecrackers have been ineffectual because of the numerous and various methods by which these dangerous fireworks are brought into California; now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the Congress of the United States to undertake appropriate action to ban the sale and use of bottle rockets and firecrackers in the United States in an effort to bring about a reduction in the number of fires and injuries related to fireworks; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to each member of the Consumer Product Safety Commission.

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#### RESOLUTION CHAPTER 28

Assembly Joint Resolution No. 66—Relative to the Santa Margarita Project.

[Filed with Secretary of State May 21, 1980.]

WHEREAS, The Santa Margarita Project is proposed as a Bureau of Reclamation multiple-purpose project in northern San Diego County, California, near the town of Fallbrook; and

WHEREAS, The project would consist of two dams and reservoirs on the Santa Margarita River, Fallbrook Dam, which would impound 36,150 acre-feet of water, and the DeLuz Dam, which would impound 100,000 acre-feet of water, and conveyance lines to serve the Fallbrook Public Utility District and the Marine Corps Base at Camp Pendleton; and

WHEREAS, The project would supply vitally needed supplemental municipal and industrial water to the Fallbrook Public Utility District, as well as provide for flood control, recreation, fish and wildlife enhancement, and regulation of imported water; and

WHEREAS, The two reservoirs would retain and deliver an average of 15,540 acre-feet of streamflow per year, which would be divided between Camp Pendleton and the Fallbrook Public Utility District; and

WHEREAS, It is essential that the Santa Margarita Project be authorized and constructed at the earliest possible time to prevent a possibly catastrophic water shortage within the area of the project in the near future; now, therefore, be it

*Resolved by the Assembly and Senate of the State of California,*

*jointly*, That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to authorize the construction of the Santa Margarita Project in northern San Diego County and to provide the initial funding necessary to enable construction of the project to commence; and be it further

*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

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### RESOLUTION CHAPTER 29

Assembly Concurrent Resolution No. 146—Relative to Disneyland and Walt Disney.

[Filed with Secretary of State May 23, 1980.]

WHEREAS, The name of Walt Disney is synonymous with love of children, the joy and freedom of youth, and the strength of the family bond; and

WHEREAS, For nearly 50 years, Walt Disney's creations have brought us laughter and love, joy and gladness, and the products of his imagination will enthrall and delight many more generations of children of all ages in every country on earth; and

WHEREAS, Walt Disney's dream embodies the ideals, the hopes, and the hard work that have created America, and Walt Disney's famous animated characters have delighted Americans for decades; and

WHEREAS, Official recognition of Walt Disney and his dream-come-true will enhance the United States, nationally and internationally, as a land where wholesome family pastimes are both encouraged and enjoyed, and through his creations the spirit of Walt Disney lives in the hearts of people the world over; and

WHEREAS, Twenty-five years ago, Walt Disney made tangible these most basic and cherished values in a "Magic Kingdom" where age relives fond memories of the past and youth may savor the challenge and promises of the future; and

WHEREAS, This embodiment contributes to the international understanding of American life and purpose, and hundreds of dignitaries have seen reflected in Disneyland the ideals that have made America great; and

WHEREAS, Disneyland honors the ideals and dreams that have made America great and serves as an inspiration to all people of the world, and the silver anniversary of Walt Disney's creation makes appropriate a salute to its creator; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate*

*thereof concurring*, That the members, on the occasion of the 25th Anniversary of Disneyland, take this opportunity to honor the memory of Walt Disney; and be it further

*Resolved*, That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to the Disneyland Ambassador.

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### RESOLUTION CHAPTER 30

Assembly Concurrent Resolution No. 105—Relative to public notice of proposed regulatory actions by state agencies.

[Filed with Secretary of State May 30, 1980 ]

WHEREAS, The Legislature has encouraged the Office of Administrative Hearings to make the Administrative Code Notice Supplement the principal mode of providing public notice of proposed regulatory actions by state agencies; and

WHEREAS, The Legislature desires that the Notice Supplement have the widest possible circulation so that the public receives complete and timely notice of proposed regulatory actions; and

WHEREAS, There exists in the Legislative Bill Room an efficient mechanism for distribution of the Notice Supplement to the public; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring*, That the Legislative Bill Room and the Office of Administrative Hearings take action on or before May 1, 1980, to provide for the distribution of the Notice Supplement through the Legislative Bill Room; and be it further

*Resolved*, That the Legislative Bill Room offer as soon as possible an optional Notice Supplement service to subscribers to the legislative bill service; and be it further

*Resolved*, That the Secretary of the Senate and the Chief Clerk of the Assembly print appropriate notices in the Senate and Assembly Files announcing the availability of the Notice Supplement from the Legislative Bill Room.

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### RESOLUTION CHAPTER 31

Assembly Concurrent Resolution No. 106—Relative to the Joint Legislative Audit Committee.

[Filed with Secretary of State May 30, 1980 ]

*Resolved by the Assembly of the State of California, the Senate thereof concurring*, That, in addition to any money heretofore made available to it, the sum of four million six hundred ninety-eight

thousand five hundred dollars (\$4,698,500), or so much thereof as may be necessary, is hereby made available from the Contingent Funds of the Assembly and Senate for the payment of any and all expenses of the Joint Legislative Audit Committee (created by Section 10501 of the Government Code) and its members and for any charges, expenses, or claims it may incur, to be paid from such fund and disbursed, after certification by the chairman of the committee, upon warrants drawn by the Controller upon the State Treasury.

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### RESOLUTION CHAPTER 32

Assembly Joint Resolution No. 58—Relative to the New Melones Dam and Reservoir.

[Filed with Secretary of State May 30, 1980]

WHEREAS, The history of New Melones Dam and Reservoir on the Stanislaus River has been clouded with emotional appeals since the dam was first authorized by Congress, following the urging of the Governor and Legislature of the State of California; and

WHEREAS, In July 1973, the Legislature of the State of California, by adoption of Assembly Joint Resolution No. 7, urged Congress to proceed with construction of New Melones Dam as quickly as possible; and

WHEREAS, In 1974 the people of California, by means of a statewide vote on a referendum measure, expressed their desire not to keep the Stanislaus River as a wild and scenic river; and

WHEREAS, A sum of over 341 million dollars has been expended for construction of this major project which, when fully operational, will provide extensive benefits to the people of California; and

WHEREAS, New Melones Dam, with a capacity of 2.4 million acre feet, has the potential to provide over 222,000 acre feet of irrigation water, a supply sufficient to serve 80,000 acres, with revenues of over 40 million dollars annually from farm land productivity; and

WHEREAS, The value of the hydroelectric power that would be produced annually by the New Melones Dam is almost 15 million dollars; now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California memorializes the Secretary of the Interior to proceed to fill the New Melones Reservoir to its maximum operating capacity; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the Interior, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

## RESOLUTION CHAPTER 33

Assembly Joint Resolution No. 56—Relative to Japanese internment.

[Filed with Secretary of State June 4, 1980.]

WHEREAS, The Congress of the United States is now considering legislation which would establish a commission to study the evacuation of 120,000 persons of Japanese ancestry from the West Coast in 1942, two-thirds of whom were United States citizens, against whom no charges were ever filed and concerning whom no imputation of disloyalty was ever lodged; and

WHEREAS, Such commission would be charged with the responsibility of studying the legal and constitutional aspects of such unprecedented action by the United States government against its own citizens, to determine whether wrong was committed and if so, to recommend redress in such manner as to be determined by the Congress of the United States to the end that such an aberration of justice will never again occur; and

WHEREAS, The Legislature of the State of California is concerned with such complete denial of civil rights, and with the possibilities of recurrence of such governmental action based upon the precedent of the Japanese American evacuations of 1942, and therefore believes that the present bills in Congress should be supported; now, therefore, be it

*Resolved by the Assembly and the Senate of the State of California, jointly,* That the Legislature of the State of California supports passage of such federal legislation; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

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 RESOLUTION CHAPTER 34

Assembly Concurrent Resolution No. 109—Relative to San Francisco-Oakland Bay Bridge and other bridges.

[Filed with Secretary of State June 6, 1980 ]

WHEREAS, There is an obligation to call the public's attention to low energy forms of recreation and transportation; and

WHEREAS, Plans are being made for a Bay Area Bicycle Action Day, sponsored by the Bay Area Bicycle Action Council, to include a bicycle ride over the upper level of the San Francisco-Oakland Bay Bridge; and

WHEREAS, This function is charitable and is supported by various civic, environmental, and youth organizations and leaders; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Department of Transportation is hereby requested to authorize the closure of necessary lanes of the upper level of the bay bridge on the date established by the Bay Area Bicycle Action Council for the period of time necessary to permit its use as part of the course of the Bay Area Bicycle Action Day bicycle ride; and be it further

*Resolved,* That the department is hereby requested to report to the Legislature not later than October 1, 1980, on the impact of this and other similar bridge closures; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the Director of Transportation and the Bay Area Bicycle Action Council.

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#### RESOLUTION CHAPTER 35

Senate Concurrent Resolution No. 71—Relative to the Joint Legislative Budget Committee.

[Filed with Secretary of State June 13, 1980]

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That in addition to any money heretofore made available to it, the sum of four million one hundred thousand dollars (\$4,100,000), or so much thereof as may be necessary, is hereby allocated from the Contingent Funds of the Assembly and Senate for the payment of any and all expenses incurred by the Joint Legislative Budget Committee or its members pursuant to and under the authority of law or the provisions of Joint Rule 37.

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#### RESOLUTION CHAPTER 36

Senate Joint Resolution No. 37—Relative to the Olympic Games.

[Filed with Secretary of State June 13, 1980.]

WHEREAS, The Olympic Games originated in Olympia, Greece, in 776 B.C., and continued, almost without interruption, to the year 394 A.D., when they were terminated by Theodosius, Emperor of the Eastern Roman Empire, who considered them a holdover from Pagan rituals; and

WHEREAS, During the course of these more than 11 centuries, the Olympic Games were considered so sacred that wars were

interrupted so that the warrior athletes could journey to Olympia to participate in the Games; and

WHEREAS, One of the principal purposes of the Games was to promote peace and harmony among all the Greek (and later Roman) city-states and the rule was that in order to participate the nations had to lay down their arms; and

WHEREAS, The Moscow Summer Olympics program for 1980 has been clouded and jeopardized by the invasion of Afghanistan by Russia, the 1980 Summer Olympics host nation, and the reaction of many western nations thereto; and

WHEREAS, The modern revival of the Olympic Games began in 1896 in Athens, Greece, and Prime Minister Constantine Caramanlis of Greece has formally invited the International Olympic Committee to return the summer games to Olympia, Greece, the original site, as a permanent place for the Games; and

WHEREAS, The Greek government has offered to donate a 1250 acre tract near Olympia to the International Olympic Committee suitable to accommodate facilities for 10,000 athletes, 10,000 journalists and 100,000 tourists, which tract would be given neutral status similar to that of the Vatican; and

WHEREAS, The Greek Olympic Committee has also proposed the development of both a neutral airport and seaport to serve the Olympic Games site; and

WHEREAS, President Jimmy Carter has announced his strong support for the move to Olympia as a permanent site and has declared he will exert every effort to accomplish it; and

WHEREAS, Such a move would help to neutralize the Games and make them less susceptible to political pressures and international political rivalry, and is more likely to revive the original Olympic spirit of peace and harmony among nations; now, therefore, be it

*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature of the State of California memorializes the International Olympic Committee and the United States Olympic Committee to give favorable consideration to the invitation of Prime Minister Caramanlis, as supported by President Carter, to move the Summer Olympics permanently to Olympia, Greece, commencing with the Summer Olympics of 1988; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the International Olympic Committee, the United States Olympic Committee, Prime Minister Constantine Caramanlis, and President Jimmy Carter.

## RESOLUTION CHAPTER 37

Assembly Concurrent Resolution No. 107—Relative to the California Law Revision Commission.

[Filed with Secretary of State June 13, 1980]

WHEREAS, The California Law Revision Commission is authorized to study only topics set forth in the calendar contained in its report to the Legislature which are thereafter approved for study by concurrent resolution of the Legislature and topics which have been referred to the commission for study by concurrent resolution of the Legislature; and

WHEREAS, The Legislature has concluded that four topics not presently authorized for study by the commission are in need of study; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring*, That the Legislature approves for study by the California Law Revision Commission the following new topics:

(1) Whether a summary procedure should be provided by which property owners can remove doubtful or invalid liens from their property, including a provision for payment of attorney fees to the prevailing party;

(2) Whether the California Probate Code should be revised, including but not limited to whether California should adopt, in whole or in part, the Uniform Probate Code;

(3) Whether the acts governing special assessments for public improvements should be simplified and unified; and

(4) Whether the law relating to pleadings in civil actions and proceedings should be revised; and be it further

*Resolved*, That the Chief Clerk of the Assembly transmit a copy of this resolution to the California Law Revision Commission.

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 RESOLUTION CHAPTER 38

Assembly Concurrent Resolution No. 110—Relative to awards made to state employees.

[Filed with Secretary of State June 13, 1980]

WHEREAS, Section 13926 of the Government Code provides that awards may be made to state employees in excess of one thousand dollars (\$1,000) when such awards are approved by concurrent resolution of the Legislature; and

WHEREAS, An award of one thousand dollars (\$1,000) has already been made to H. F. Winner, Department of Corrections, for a suggestion that results in annual savings of twenty-three thousand four hundred dollars (\$23,400) by recommending that quarterly

truck tabs issued by the Department of Motor Vehicles be made of Scotchlite material instead of metal; and

WHEREAS, An award of one thousand dollars (\$1,000) has already been made to Flick F. McMillin, State Department of Developmental Services, Napa State Hospital, for a suggestion that results in annual savings of forty-eight thousand four dollars (\$48,004) by suggesting a modification to the steam pressure reducing valves which decreases the use of natural gas; and

WHEREAS, An award of one thousand dollars (\$1,000) has already been made to Robert O. Wilcher, Department of Forestry, for a suggestion that results in annual savings of twenty-five thousand five hundred ninety dollars (\$25,590) by recommending disposable paper sleeping bags used by regular inmate crews assigned to the fireline, be replaced with cloth sleeping bags resulting in a reduction of emergency funds; and

WHEREAS, An award of one thousand dollars (\$1,000) has already been made to Peter J. Sardelich, Department of General Services, who with the material assistance of his immediate supervisor, Barbara L. Hynick, suggested a procedure which results in annual savings of thirteen thousand seven hundred dollars (\$13,700) by recommending that United Parcel Service, instead of U.S. mail be used to ship legislative bills, daily files, etc., from the State Printer's Bill Room; and

WHEREAS, An award of one thousand dollars (\$1,000), divided equally, has already been made to A. B. Cunningham and John D. Deiter, Department of General Services, who with the material assistance of their immediate supervisor, William Marek, suggested a procedure which results in annual savings of forty-two thousand one hundred thirty-four dollars (\$42,134) by recommending 16 and 32 page signatures for legislative bills, resolutions, indexes, files and histories be pasted rather than stitched; and

WHEREAS, An award of one thousand dollars (\$1,000) has already been made to Harold A. Porrazzo, Department of California Highway Patrol, for a suggestion that results in annual savings of thirty-four thousand three hundred dollars (\$34,300) by recommending uniform allowance be provided only for those uniformed employees who are actively working; and

WHEREAS, An award of one thousand dollars (\$1,000) has already been made to Arlen E. Goldsmith, Department of California Highway Patrol, for a suggestion that results in annual savings of thirteen thousand three hundred twenty-four dollars (\$13,324) by recommending the manual priming tool, used for loading plastic practice bullets, be replaced with an automatic loader; and

WHEREAS, An award of one thousand dollars (\$1,000) has already been made to Theodore L. Bennett, Department of California Highway Patrol, for a suggestion which results in annual savings of forty-seven thousand forty dollars (\$47,040) by recommending the Department of Motor Vehicles eliminate the requirement that a prepaid postcard, Commercial Trip Permit, be mailed to

headquarters; and

WHEREAS, An award of one thousand dollars (\$1,000), divided equally, has already been made to Norma Hughson and Jane Whitney, Department of Motor Vehicles, for a suggestion that results in annual savings of sixteen thousand seven hundred seven dollars (\$16,707) by recommending a change in the data processing procedures for updating Mass Storage Files (AMIS) which reduced the lag time for processing registration applications when discrepancies are encountered and eliminated the mailing of incorrect ownership certificates; and

WHEREAS, An award of one thousand dollars (\$1,000) has already been made to Patricia Roby, Department of Motor Vehicles, for a suggestion which results in annual savings of eleven thousand one hundred two dollars (\$11,102) by recommending the mailroom process and distribute by departmental messenger service that mail formerly handled by the duplicating unit to combine mailings at a savings in postage and envelope costs; and

WHEREAS, An award of one thousand dollars (\$1,000) has already been made to Robert E. White, Department of Motor Vehicles, for a suggestion that results in annual savings of twenty thousand nine hundred eighty-two dollars (\$20,982) by recommending internal changes in the procedures used to effect name change corrections to drivers' licenses; and

WHEREAS, An award of one thousand dollars (\$1,000), divided equally, has already been made to Ronald W. Bull and Louella Beveridge, Department of Motor Vehicles, for their suggestions which result in annual savings of nineteen thousand one hundred sixty-seven dollars (\$19,167) by recommending that a form, Cross Reference Card for Substitute Plates, be attached to the prior record and left in file rather than routed for further handling; and

WHEREAS, An award of one thousand dollars (\$1,000) has already been made to Jane Ramsey, Department of Motor Vehicles, for a suggestion which results in annual savings of fifty-three thousand two hundred seventy-eight dollars (\$53,278) by recommending that the personnel of one unit be physically located on the same floor to better utilize the personnel and administrative resources; and

WHEREAS, An award of one thousand dollars (\$1,000) has already been made to Marie E. Leonard, Department of Motor Vehicles, for a suggestion which results in annual savings of twenty thousand five hundred fifty-nine dollars (\$20,559) by recommending the steps to process certain stop notices against vehicular computer records be streamlined to eliminate the typing of 43,300 documents yearly; and

WHEREAS, An award of one thousand dollars (\$1,000) has already been made to Dorothy J. Anderson, State Department of Social Services, for a suggestion which results in annual savings of seventeen thousand four hundred seventy-six dollars (\$17,476) by recommending that the State Department of Health Services develop a new form for medical programs to eliminate excessive typing of reasons on invoice "Notice of Correction" sent to vendors;

and

WHEREAS, A supervisory participation award is recommended for Dale M. Smith, Department of Transportation, for materially assisting in the development of a suggestion for which an award of one thousand dollars (\$1,000) has been made to Bob W. Krause, which resulted in annual savings of seventeen thousand two hundred forty-eight dollars (\$17,248) by suggesting the use of a commercial ready-mix asphalt as traffic detector and loop replacement sealer, instead of epoxy; and

WHEREAS, An award of one thousand dollars (\$1,000) has already been made to Richard F. Barlow, Department of Transportation, for a suggestion which results in annual savings of thirteen thousand four hundred twenty dollars (\$13,420) by recommending that plastic composition pipe be substituted for galvanized steel pipe for water supply lines in box girder bridges; and

WHEREAS, An award of one thousand dollars (\$1,000) has already been made to Hanns J. Lee, Department of Transportation, for a suggestion which results in annual savings of twenty thousand five hundred ninety-nine dollars (\$20,599) by recommending toll bridge commute books be printed without the year designation, eliminating the destruction of unused books; and

WHEREAS, An award of one thousand dollars (\$1,000) has already been made to William Bordisso, Department of Water Resources, for a suggestion which results in annual savings of eleven thousand five hundred fifty-two dollars (\$11,552) for designing an automatic pump and sensor cleaning system which eliminates manual cleaning of marine growth from land-based water quality monitoring stations; and

WHEREAS, The suggestions of these employees have resulted in annually recurring savings amounting to four hundred fifty-two thousand three hundred thirty-four dollars (\$452,334); and

WHEREAS, As a result of these savings it is unnecessary to appropriate additional funds for payment of these awards; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the following additional awards, which have been approved by the State Board of Control, are hereby authorized to the employees named:

H. F. Winner, one thousand three hundred forty dollars (\$1,340).

Flick F. McMillin, three thousand eight hundred dollars (\$3,800).

Robert O. Wilcher, one thousand five hundred sixty dollars (\$1,560).

Peter J. Sardelich, three hundred seventy dollars (\$370).

Barbara L. Hynick, four hundred ten dollars (\$410).

John D. Deiter, one thousand six hundred dollars (\$1,600).

A. B. Cunningham, one thousand six hundred dollars (\$1,600).

William Marek, one thousand two hundred sixty-four dollars (\$1,264).

Harold A. Porrazzo, two thousand four hundred thirty dollars

(\$2,430).

Arlen E. Goldsmith, three hundred thirty dollars (\$330).

Norma Hughson, three hundred thirty-five dollars (\$335).

Jane Whitney, three hundred thirty-five dollars (\$335).

Theodore L. Bennett, three thousand seven hundred four dollars (\$3,704).

Patricia Roby, one hundred ten dollars (\$110).

Robert E. White, one thousand ninety-eight dollars (\$1,098).

Ronald W. Bull, four hundred fifty-eight dollars (\$458).

Louella Beveridge, four hundred fifty-eight dollars (\$458).

Jane Ramsey, four thousand three hundred thirty dollars (\$4,330).

Marie E. Leonard, one thousand fifty-five dollars (\$1,055).

Dorothy J. Anderson, seven hundred fifty dollars (\$750).

Dale M. Smith, five hundred seventeen dollars (\$517).

Richard F. Barlow, three hundred forty-five dollars (\$345).

Hanns J. Lee, one thousand sixty dollars (\$1,060).

William Bordisso, one hundred fifty-five dollars (\$155); and be it further

*Resolved*, That the Chief Clerk of the Assembly is directed to transmit a copy of this resolution to the State Board of Control and to the Controller.

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#### RESOLUTION CHAPTER 39

Assembly Joint Resolution No. 71—Relative to Medicare and Medicaid.

[Filed with Secretary of State June 13, 1980.]

WHEREAS, One of every 11 Americans aged 65 or older live in California, making it the leading state residence of older Americans, with 2,296,400 senior citizens; and

WHEREAS, It is projected that the number of senior citizens residing in California will increase to 3,135,440 by the year 2000; and

WHEREAS, In the normal aging process some of these older persons will have chronic health functional disabilities which will either eliminate or limit the amount or kind of major activity; and

WHEREAS, The federal government and the State of California originally addressed the long-term illness or disability among older Americans by reliance on institutional forms of care so that there are now more persons in nursing homes than in hospitals; and

WHEREAS, National and state-sponsored health care research and demonstration projects have shown that many older persons have been prematurely and unnecessarily institutionalized at great economic, physical, and emotional cost to older persons, their families, and the state; and

WHEREAS, The cost of health care is significantly contributing to

the increase in the cost of living; and

WHEREAS, Older persons spend a disproportionate amount of their incomes on health care; and

WHEREAS, The federal and the state government are in a period of limited public resources; and

WHEREAS, This public concern about the needless institutionalization of older impaired persons is demanding the development of alternatives; and

WHEREAS, The adult day health care program has demonstrated the humane and cost-effective value of this mode of health care as an alternative to institutionalization of impaired older persons and as one option in a much needed system of long-term care for impaired older persons; and

WHEREAS, Medicare Title XVIII of the Social Security Act was enacted to provide basic health insurance coverage to older Americans; now, therefore, be it

*Resolved by the Assembly and the Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to amend Title XVIII of the Social Security Act to expand the definition of provider of services to include any "adult day health care center" and to amend Title XIX of the Social Security Act to include adult day health care as a mandated Medicaid service; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

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#### RESOLUTION CHAPTER 40

Senate Joint Resolution No. 30—Relative to elementary school guidance and counseling programs.

[Filed with Secretary of State June 17, 1980.]

WHEREAS, The elementary school of today has become a setting where early symptoms of society's problems and concerns are displayed; and

WHEREAS, Elementary school children become increasingly vulnerable to these external pressures as they attempt to acquire personal, social, and academic skills; and

WHEREAS, Early symptoms of these pressures are underachievement, school disinterest, classroom disruption, and truancy, which result in acute societal and economic burdens; and

WHEREAS, Without early and appropriate intervention these pressures are manifested as juvenile delinquency, drug abuse, school

vandalism, failure, and the loss to society of fully functioning and complete adults; and

WHEREAS, In the elementary school setting children absorb and adopt views related to human and societal values, attitudes toward self and work, and toward individuals from other cultures and ethnic origins, and in no other setting is the establishment of a foundation for self-discipline and positive mental health more critical; and

WHEREAS, Positive learning environments for children require a comprehensive, coordinated effort of the school, the home, and the community; and

WHEREAS, The elementary school counselor is a professional uniquely qualified to facilitate such cooperative efforts within an established guidance and counseling program; now, therefore, be it

*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the Congress of the United States to enact federal legislation which would assure the accessibility of developmental guidance and counseling to all children of elementary school age by providing for comprehensive elementary school guidance and counseling programs; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

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#### RESOLUTION CHAPTER 41

Senate Concurrent Resolution No. 76—Relative to small business.

[Filed with Secretary of State June 17, 1980]

WHEREAS, The White House Conference on Small Business has been deemed successful in attaining recognition of the issues that adversely impact the small business community on the federal level; and

WHEREAS, The White House delegates representing California continue to work on implementation of the results of the White House Conference at their own expense; and

WHEREAS, The expansion of the California economy and the viability of the state's economic health is due in large measure to the vital role that small businesses have played, and continue to play, in the growth and development of this great state; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the importance of the White House Conference be acknowledged and the delegates and the State of

California be encouraged to hold a state conference on small business to determine state level issues that need to be addressed on small businesses' behalf.

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## RESOLUTION CHAPTER 42

Assembly Joint Resolution No. 64—Relative to the Six Rivers National Forest.

[Filed with Secretary of State June 20, 1980.]

WHEREAS, The economy of northwestern California has suffered substantial losses of commercial timber in 1968 and 1978 with the federal taking of lands for the Redwood National Park; and

WHEREAS, The Senate Interior and Insular Affairs Committee found in 1967 that the Forest Service could legally and appropriately increase timber sales from the Six Rivers National Forest on an annual basis and "strongly" recommended such an early increase; and

WHEREAS, Forest Service timber sales in the area have dropped substantially since the late 1960's in spite of identified opportunities for increases, further compounding the economic dislocation created by the park acquisitions; and

WHEREAS, Congress, in 1978, ordered a study of timber harvest potentials for such forest with the result that even greater opportunities for increased annual harvest levels were shown; and

WHEREAS, The President, on June 12, 1979, directed the Department of Agriculture "to use maximum speed in updating land management plans on selected national forests with the objective of increasing the harvest of mature timber through departure from current nondeclining even-flow"; and

WHEREAS, The Secretary of Agriculture's National Forest System Advisory Committee, on October 10, 1979, identified the Six Rivers National Forest as one "where the potential for departure is the highest and the staff capability exists for completion within one year of land management plans"; now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the California Legislature respectfully urges the Secretary of Agriculture and the Regional Forester of the Pacific Southwest Region of the United States Forest Service to take all actions necessary to assure that approximately 120 million board feet of timber in the Six Rivers National Forest are offered for sale during the 1980 federal fiscal year and approximately 147 million board feet in that forest are offered in the 1981 federal fiscal year, concurrently with the completion of the Six Rivers National Forest Land and Resource Management Plan; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of

this resolution to the Secretary of Agriculture, to the Regional Forester of the Pacific Southwest Region of the United States Forest Service, and to each Senator and Representative from California in the Congress of the United States.

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### RESOLUTION CHAPTER 43

Senate Constitutional Amendment No. 26—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by amending Section 1 of Article XIII A, relating to taxation.

[Filed with Secretary of State June 20, 1980.]

*Resolved by the Senate, the Assembly concurring,* That the Legislature of the State of California at its 1979–80 Regular Session commencing on the fourth day of December, 1978, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the state be amended by amending Section 1 of Article XIII A to read:

SECTION 1. (a) The maximum amount of any ad valorem tax on real property shall not exceed one percent (1%) of the full cash value of such property. The one percent (1%) tax to be collected by the counties and apportioned according to law to the districts within the counties.

(b) The limitation provided for in subdivision (a) shall not apply to ad valorem taxes or special assessments to pay the interest and redemption charges on any indebtedness approved by the voters prior to the time this section becomes effective or thereafter to pay interest and redemption charges on indebtedness for acquiring or improving real property and acquiring tangible personal property necessary to the use of such real property, provided that such indebtedness is approved by two-thirds of the votes cast by the voters voting upon a proposition to approve such indebtedness. The limitation provided for in subdivision (a) shall not apply to ad valorem taxes or special assessments to pay the interest and redemption charges on any indebtedness issued in accordance with law to refund any of the foregoing.

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### RESOLUTION CHAPTER 44

Senate Joint Resolution No. 33—Relative to pesticide exposure.

[Filed with Secretary of State June 23, 1980 ]

WHEREAS, The public is losing confidence in the environmental situation with respect to agricultural workers exposed to various pesticides; and

WHEREAS, Public concern about safety of workers and others exposed in the areas where pesticides are used is increasing; and

WHEREAS, Concern about farm and forestry workers, in particular, is increasing; and

WHEREAS, California has restructured its regulations and there is no agreement as to whether or not this is required, especially from the standpoint of workers; and

WHEREAS, Minority groups are the ones most apt to be exposed; and

WHEREAS, There is a lack of epidemiological information on the effect on the farm workers; and

WHEREAS, A thorough intensive epidemiological study on present farm workers has never been made; and

WHEREAS, Tests on humans for effects of pesticides are prohibited by law; now therefore, be it

*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature of the State of California urgently requests the National Center for Health Statistics and the Environmental Protection Agency to conduct epidemiological studies on existing populations of farm workers with regard to exposure to pesticides; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the National Center for Health Statistics and the Administrator of the Environmental Protection Agency.

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## RESOLUTION CHAPTER 45

Assembly Constitutional Amendment No. 3—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by adding subdivisions (c), (d), and (e) to Section 2 of Article XIII A thereof, relating to taxation.

[Filed with Secretary of State June 24, 1980 ]

*Resolved by the Assembly, the Senate concurring,* That the Legislature of the State of California at its 1979–80 Regular Session commencing on the fourth day of December, 1978, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the state be amended as follows:

First—That subdivision (c) is added to Section 2 of Article XIII A, to read:

(c) For purposes of this section, the term “newly constructed”

shall not include real property which is reconstructed after a disaster, as defined by the Legislature, where the fair market value of such real property, as reconstructed, is comparable to its fair market value prior to the disaster, nor shall it include real property which is reconstructed or improved to comply with applicable laws relative to seismic safety, as defined by the Legislature.

Second—That subdivision (d) is added to Section 2 of Article XIII A, to read:

(d) For purposes of this section, the term “change in ownership” shall not include the acquisition of real property as a replacement for comparable property if: (1) the property replaced was damaged or destroyed as a result of a disaster, as defined by the Legislature; or (2) the person acquiring the real property has been displaced from the property replaced by eminent domain proceedings, by acquisition by a governmental agency, or governmental action which has resulted in a judgment of inverse condemnation. The real property acquired shall be deemed comparable to the property replaced if it is similar in size, utility, and function, or if it conforms to minimum federal or state regulations governing the relocation of persons displaced by governmental actions. The provisions of this paragraph shall be applied to any property acquired after March 1, 1975.

Third—That subdivision (e) is added to Section 2 of Article XIII A, to read:

(e) The provisions of this section apply only to exemptions from real property assessment and do not limit the existing authority of the Governor to declare disasters or to provide emergency services to any area pursuant to law.

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## RESOLUTION CHAPTER 46

Assembly Concurrent Resolution No. 114—Relative to enforcement of the national maximum speed limit.

[Filed with Secretary of State June 24, 1980.]

WHEREAS, The Department of the California Highway Patrol has the primary responsibility for enforcing the maximum speed limits on the state highway system; and

WHEREAS, Present methods of traffic law enforcement need to be supplemented in order to assure safety and provide adequate compliance by members of the driving public; and

WHEREAS, The Department of the California Highway Patrol has determined that a one-mile-per-hour average speed decrease on the state highway system would reduce fatalities by 40 lives per year; and

WHEREAS, Studies have also indicated that a one-mile-per-hour average speed decrease on the state highway system would produce

an annual fuel savings equivalent to 50 million gallons of fuel; and  
WHEREAS, The Congress of the United States, in the Highway Safety Act of 1978, has directed the State of California to set aside a portion of its federal funds for the purpose of obtaining increased compliance with the national 55 miles-per-hour speed limit; and

WHEREAS, The Congress has imposed rigid compliance standards on all states with the objective of achieving 70 percent compliance with the national maximum speed limit by 1983; and

WHEREAS, The Secretary of Transportation is required to reduce the state's apportionment of federal-aid highway funds in an increasing amount for noncompliance with the national maximum speed limit; and

WHEREAS, Fixed wing aircraft have proven to be an efficient, cost-effective method of enforcing the national maximum speed limit while providing assistance to motorists on California highways; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Commissioner of the California Highway Patrol is hereby requested to seek financial assistance from the federal government for the purchase of fixed wing aircraft and support elements in order to more effectively enforce the national maximum speed limit of 55 miles per hour and provide services to motorists on California highways; and be it further

*Resolved,* That such aircrafts shall not utilize electronic speed monitoring equipment for the purpose of determining a motorist's speed on California highways; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit a copy of this resolution to the Commissioner of the California Highway Patrol.

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#### RESOLUTION CHAPTER 47

Senate Constitutional Amendment No. 14—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by amending Section 16 of Article I thereof, relating to juries.

[Filed with Secretary of State June 24, 1980 ]

*Resolved by the Senate, the Assembly concurring,* That the Legislature of the State of California at its 1979-80 Regular Session commencing on the fourth day of December, 1978, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the state be amended by amending Section 16 of Article I thereof, as follows:

SEC. 16. Trial by jury is an inviolate right and shall be secured to all, but in a civil cause three-fourths of the jury may render a verdict.

A jury may be waived in a criminal cause by the consent of both parties expressed in open court by the defendant and the defendant's counsel. In a civil cause a jury may be waived by the consent of the parties expressed as prescribed by statute.

In civil causes the jury shall consist of 12 persons or a lesser number agreed on by the parties in open court. In civil causes in municipal or justice court the Legislature may provide that the jury shall consist of eight persons or a lesser number agreed on by the parties in open court.

In criminal actions in which a felony is charged, the jury shall consist of 12 persons. In criminal actions in which a misdemeanor is charged, the jury shall consist of 12 persons or a lesser number agreed on by the parties in open court.

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#### RESOLUTION CHAPTER 48

Senate Constitutional Amendment No. 28—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by adding subdivision (c) to Section 2 of Article XIII A, relating to taxation.

[Filed with Secretary of State June 26, 1980.]

*Resolved by the Senate, the Assembly concurring,* That the Legislature of the State of California at its 1979–80 Regular Session commencing on the fourth day of December, 1978, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the state be amended by adding subdivision (c) to Section 2 of Article XIII A, to read:

(c) For purposes of subdivision (a), the Legislature may provide that the term “newly constructed” shall not include the construction or addition of any active solar energy system.

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#### RESOLUTION CHAPTER 49

Assembly Constitutional Amendment No. 90—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by adding Article X A, relating to water.

[Filed with Secretary of State June 26, 1980.]

*Resolved by the Assembly, the Senate concurring,* That the Legislature of the State of California at its 1979–80 Regular Session commencing on the fourth day of December, 1978, two-thirds of the members elected to each of the two houses of the Legislature voting

therefor, hereby proposes to the people of the State of California that the Constitution of the state be amended, by adding Article X A thereto, to read:

## Article X A

### Water Resources Development

SECTION 1. The people of the State hereby provide the following guarantees and protections in this article for water rights, water quality, and fish and wildlife resources.

SEC. 2. No statute amending or repealing, or adding to, the provisions of the statute enacted by Senate Bill No. 200 of the 1979-80 Regular Session of the Legislature which specify (1) the manner in which the State will protect fish and wildlife resources in the Sacramento-San Joaquin Delta, Suisun Marsh, and San Francisco Bay system westerly of the delta; (2) the manner in which the State will protect existing water rights in the Sacramento-San Joaquin Delta; and (3) the manner in which the State will operate the State Water Resources Development System to comply with water quality standards and water quality control plans, shall become effective unless approved by the electors in the same manner as statutes amending initiative statutes are approved; except that the Legislature may, by statute passed in each house by roll call vote entered in the journal, two-thirds of the membership concurring, amend or repeal, or add to, these provisions if the statute does not in any manner reduce the protection of the delta or fish and wildlife.

SEC. 3. No water shall be available for appropriation by storage in, or by direct diversion from, any of the components of the California Wild and Scenic Rivers System, as such system exists on January 1, 1981, where such appropriation is for export of water into another major hydrologic basin of the state, as defined in the Department of Water Resources Bulletin 160-74, unless such export is expressly authorized prior to such appropriation by: (a) an initiative statute approved by the electors, or (b) the Legislature, by statute passed in each house by roll call vote entered in the journal, two-thirds of the membership concurring.

SEC. 4. No statute amending or repealing, or adding to, the provisions of Part 4.5 (commencing with Section 12200) of Division 6 of the Water Code (the Delta Protection Act) shall become effective unless approved by the electors in the same manner as statutes amending initiative statutes are approved; except that the Legislature may, by statute passed in each house by roll call vote entered in the journal, two-thirds of the membership concurring, amend or repeal, or add to, these provisions if the statute does not in any manner reduce the protection of the delta or fish and wildlife.

SEC. 5. No public agency may utilize eminent domain proceedings to acquire water rights, which are held for uses within the Sacramento-San Joaquin Delta as defined in Section 12220 of the

Water Code, or any contract rights for water or water quality maintenance in the Delta for the purpose of exporting such water from the Delta. This provision shall not be construed to prohibit the utilization of eminent domain proceedings for the purpose of acquiring land or any other rights necessary for the construction of water facilities, including, but not limited to, facilities authorized in Chapter 8 (commencing with Section 12930) of Part 6 of Division 6 of the Water Code.

SEC. 6. (a) The venue of any of the following actions or proceedings brought in a superior court shall be Sacramento County:

(1) An action or proceeding to attack, review, set aside, void, or annul any provision of the statute enacted by Senate Bill No. 200 of the 1979–80 Regular Session of the Legislature.

(2) An action or proceeding to attack, review, set aside, void, or annul the determination made by the Director of Water Resources and the Director of Fish and Game pursuant to subdivision (a) of Section 11255 of the Water Code.

(3) An action or proceeding which would have the effect of attacking, reviewing, preventing, or substantially delaying the construction, operation, or maintenance of the peripheral canal unit described in subdivision (a) of Section 11255 of the Water Code.

(4) An action or proceeding to require the State Water Resources Development System to comply with subdivision (b) of Section 11460 of the Water Code.

(5) An action or proceeding to require the Department of Water Resources or its successor agency to comply with the permanent agreement specified in subdivision (a) of Section 11256 of the Water Code.

(6) An action or proceeding to require the Department of Water Resources or its successor agency to comply with the provisions of the contracts entered into pursuant to Section 11456 of the Water Code.

(b) An action or proceeding described in paragraph (1) of subdivision (a) shall be commenced within one year after the effective date of the statute enacted by Senate Bill No. 200 of the 1979–80 Regular Session of the Legislature. Any other action or proceeding described in subdivision (a) shall be commenced within one year after the cause of action arises unless a shorter period is otherwise provided by statute.

(c) The superior court or a court of appeals shall give preference to the actions or proceedings described in this section over all civil actions or proceedings pending in the court. The superior court shall commence hearing any such action or proceeding within six months after the commencement of the action or proceeding, provided that any such hearing may be delayed by joint stipulation of the parties or at the discretion of the court for good cause shown. The provisions of this section shall supersede any provisions of law requiring courts to give preference to other civil actions or proceedings. The provisions of this subdivision may be enforced by mandamus.

(d) The Supreme Court shall, upon the request of any party, transfer to itself, before a decision in the court of appeal, any appeal or petition for extraordinary relief from an action or proceeding described in this section, unless the Supreme Court determines that the action or proceeding is unlikely to substantially affect (1) the construction, operation, or maintenance of the peripheral canal unit described in subdivision (a) of Section 11255 of the Water Code, (2) compliance with subdivision (b) of Section 11460 of the Water Code, (3) compliance with the permanent agreement specified in Section 11256 of the Water Code, or (4) compliance with the provisions of the contracts entered into pursuant to Section 11456 of the Water Code. The request for transfer shall receive preference on the Supreme Court's calendar. If the action or proceeding is transferred to the Supreme Court, the Supreme Court shall commence to hear the matter within six months of the transfer unless the parties by joint stipulation request additional time or the court, for good cause shown, grants additional time.

(e) The remedy prescribed by the court for an action or proceeding described in paragraph (4), (5), or (6) of subdivision (a) shall include, but need not be limited to, compliance with subdivision (b) of Section 11460 of the Water Code, the permanent agreement specified in Section 11256 of the Water Code, or the provisions of the contracts entered into pursuant to Section 11456 of the Water Code.

(f) The Board of Supervisors of the County of Sacramento may apply to the State Board of Control for actual costs imposed by the requirements of this section upon the county, and the State Board of Control shall pay such actual costs.

(g) Notwithstanding the provisions of this section, nothing in this Article shall be construed as prohibiting the Supreme Court from exercising the transfer authority contained in Article VI, Section 12 of the Constitution.

SEC. 7. State agencies shall exercise their authorized powers in a manner consistent with the protections provided by this article.

SEC. 8. This article shall have no force or effect unless Senate Bill No. 200 of the 1979-80 Regular Session of the Legislature is enacted and takes effect.

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## RESOLUTION CHAPTER 50

Senate Concurrent Resolution No. 68—Relative to National Guard Day, 1980.

[Filed with Secretary of State June 30, 1980.]

WHEREAS, The National Guard is the oldest military force in the nation, originating in the early colonial days on October 7, 1636, with the formation of the Old North Regiment of the Massachusetts

Colonial Militia; and

WHEREAS, For 344 years, the men and women of the National Guard have repeatedly demonstrated their dedication and patriotism by participation in every conflict involving the United States during which more than 4,000,000 National Guard members joined forces with active military units to defend the principles of this nation; and

WHEREAS, The National Guard is unique among all services because of its federal mission as the principal backup to the active Army and Air Force in times of war or national emergency and its state mission to provide for protection of life and property and preserve peace, order, and public safety in times of natural disasters; and

WHEREAS, Since 1975, the California National Guard has expended more than 200,000 man-days in support of the citizens of California during forest fires, floods, and search and rescue missions; and

WHEREAS, During the floods in February and March of 1980, 700 men and women of the California National Guard were called from their homes, families, and businesses to assist the communities of California; and

WHEREAS, The California National Guard is a vital part of the National Guard of the United States and has provided the citizens of California with a trained and organized militia ready to serve the state as well as the nation in time of need; and

WHEREAS, It is fitting and proper that a day be designated in commemoration of the California National Guard and out of recognition of the debt of gratitude owed by the people of the State of California to those who serve as members of the California National Guard; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature of the State of California requests all Californians to celebrate Tuesday, October 7, 1980, as National Guard Day, and to honor the California Army and Air National Guard for service to their communities, the State of California, and the United States of America; and be it further

*Resolved,* That the Secretary of the Senate transmit a suitably prepared copy of this resolution to the Commanding General of the California National Guard and that copies be forwarded to the board of supervisors of each county and mayor of each city in California.

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#### RESOLUTION CHAPTER 51

Senate Concurrent Resolution No. 70—Relative to long term care facilities.

[Filed with Secretary of State June 30, 1980 ]

WHEREAS, Long term care facilities in California have dedicated themselves to providing quality care to those entrusted to their care; and

WHEREAS, Many of our convalescing aged and chronically ill citizens spend varying periods of time in long term care facilities; and

WHEREAS, The long term care profession has forcefully demonstrated its dedication by continually striving to upgrade standards of care and improve services; and

WHEREAS, Member facilities of the California Association of Health Facilities and its national affiliate, the American Health Care Association, are sponsoring many activities in observance of National Nursing Home Week, beginning Mother's Day, Sunday, May 11, 1980, now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That all residents of California are requested to join in the observance of National Nursing Home Week and to participate in a demonstration of recognition, support, encouragement, and appreciation for the high standard of care that long term care facilities are providing in California.

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## RESOLUTION CHAPTER 52

Assembly Concurrent Resolution No. 119—Relative to the taxation of mobilehomes.

[Filed with Secretary of State June 30, 1980.]

WHEREAS, For many years, mobilehomes were subject to the state's Vehicle License Fee Law, which is in lieu of local property taxes; and

WHEREAS, At the 1979 portion of its 1979–80 Regular Session, the Legislature enacted Senate Bill No. 1004 as Chapter 1180 of the Statutes of 1979 to subject certain mobilehomes to property taxation; and

WHEREAS, The Legislature now finds that confusion exists with respect to the proper method of assessing some of these mobilehomes for purposes of local property taxation; and

WHEREAS, If a mobilehome sold after July 1, 1980, is situated on a rented space in a mobilehome park, it is the intent of the Legislature that the assessor shall exclude from the value of such mobilehome any value allocable to land value which is included in the mobilehome's purchase price; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That land value shall be excluded from computations when mobilehomes subject to property taxation are being assessed for purposes of property taxation and such

mobilehomes are situated on rented land in mobilehome parks, as this method of assessment is declaratory of existing law.

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### RESOLUTION CHAPTER 53

Assembly Concurrent Resolution No. 151—Relative to preservation of the “HK-1 Seaplane”.

[Filed with Secretary of State June 30, 1980]

WHEREAS, During World War II, numerous Allied combat troops were lost at sea as a result of submarine attacks on troop transport convoys; and

WHEREAS, In response to the need for alternative means of large-scale troop transport, Henry J. Kaiser and Howard Hughes formed the Kaiser-Hughes Corporation for the purpose of developing high-volume troop transport aircraft; and

WHEREAS, In September 1942 the Kaiser-Hughes Corporation submitted a design for a single-hull, eight-engine troop transport seaplane to the United States Department of War; and

WHEREAS, The Kaiser-Hughes Corporation proposed to build a seaplane constructed of laminated wood formed by the duramold process of continuous seamless shaping, with general dimensions of 320 feet wing span, nose-to-tail length of 212 feet, fuselage height of 30 feet, and tail fin height of 80 feet, and with troop capacity of 750, gross weight (unladen) of 400,000 pounds, fuel capacity of 12,500 gallons, and an estimated flying range of 2,975 miles; and

WHEREAS, Construction of a seaplane prototype required erection of the world’s largest wooden building with general dimensions of 850 feet in length, 250 feet in width, and 100 feet in height, located in Culver City; and

WHEREAS, Upon final assembly, the Hughes Flying Boat, christened the “HK-1 Seaplane,” became the largest aircraft built in aviation history; and

WHEREAS, The “HK-1 Seaplane” was flown on November 2, 1947, at Long Beach Harbor with Howard Hughes as pilot, and a crew and passenger complement totaling 32 persons, making it the largest aircraft flown in the history of aviation; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Legislature of the State of California finds the largest aircraft built and flown in the history of aviation to be of significant historical importance to the people of California; and be it further

*Resolved,* That the preservation of the “HK-1 Seaplane” as the largest example of aircraft construction by the duramold process of continuous seamless shaping of laminated wood is best served by preserving the seaplane in its original form; and be it further

*Resolved*, That the State Historic Preservation Officer is hereby requested to consult with the United States Army Corps of Engineers, the Long Beach Harbor Department, and the Summa Corporation or other holders of title to the "HK-1 Seaplane" to insure proper compliance with the National Historic Preservation Act of 1966 as it may relate to the "HK-1 Seaplane"; and be it further

*Resolved*, That the Office of Historic Preservation, of the Department of Parks and Recreation, is requested to nominate the Hughes Flying Boat, the "HK-1 Seaplane," as historical property to the National Register of Historic Places; and be it further

*Resolved*, That all efforts be explored to maintain the "HK-1 Seaplane" in its present form at an acceptable site, to make available to the people of California an opportunity to view this historic aircraft; and be it further

*Resolved*, That it shall not be inferred from the adoption of this resolution that the State of California intends to seek or support the expenditure of public funds for the acquisition and preservation of the "HK-1 Seaplane"; and be it further

*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the Summa Corporation or other holders of title to the "HK-1 Seaplane," the Director of Parks and Recreation, the State Historical Resources Commission, and the State Historic Preservation Officer.

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#### RESOLUTION CHAPTER 54

Assembly Joint Resolution No. 13—Relative to the deportation of foreign nationals.

[Filed with Secretary of State June 30, 1980 ]

*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature respectfully memorializes the Congress of the United States to require the deportation of all foreign nationals who riot or demonstrate in any manner contrary to law and inconsistent with permissible behavior of guests in the United States; and be it further

*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

## RESOLUTION CHAPTER 55

Assembly Joint Resolution No. 45—Relative to federal reclamation laws.

[Filed with Secretary of State June 30, 1980]

WHEREAS, Agriculture is the number one industry in California, accounting for approximately \$10 billion annually in gross production and a total impact on the state economy of at least \$30 billion, and providing 10 percent of our nation's agricultural exports; and

WHEREAS, It is in the public interest to maintain, foster, and promote efficient family farm agricultural production on the 3½ million acres of reclamation lands in California and the 11 million acres in the 17 western states; and

WHEREAS, The 160-acre limitation on water deliveries from federal reclamation projects was adopted in 1902, and the scale of farm economy has changed substantially in the past 75 years; and

WHEREAS, Increasing amounts of American farmland are being acquired by foreign interests; and

WHEREAS, The Secretary of the Interior has taken a court order calling for public rulemaking procedures on excess land sales and expanded it to revise all reclamation laws administratively; now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California memorializes the Congress of the United States and the Secretary of the Interior to revise and clarify reclamation laws to promote a viable agriculture by modernizing the limitation on the acreage in individual ownerships eligible to receive water from federal projects and by updating residency requirements; and be it further

*Resolved,* That the Legislature of the State of California urges reforming federal reclamation laws to allow farmers the opportunity to pay the full cost of water and thereby be relieved of acreage limitations and other restrictions; and be it further

*Resolved,* That the Legislature of the State of California urges that foreign owners or operators receiving federal reclamation water be required to pay the full costs of such water; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the Interior, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

## RESOLUTION CHAPTER 56

Assembly Joint Resolution No. 73—Relative to small business.

[Filed with Secretary of State June 30, 1980 ]

WHEREAS, The American dream is to be an owner of one's own business and almost everyone has had the dream and millions of Americans have lived it; and

WHEREAS, The American dream is the cornerstone of our 200-year old American heritage and also is the reason for our country's position as the most economically powerful nation in the world today; and

WHEREAS, We could not have achieved this status as a nation if we had not been presented with opportunity unencumbered by government regulation nor could we have achieved this nation's status if entrepreneurs had not had the fortitude and shown the initiative to take advantage of opportunity when it presented itself; and

WHEREAS, America was founded on the principle of each individual's fundamental rights, such as freedom of speech, freedom of religion, freedom of the press, freedom of assembly, freedom to bear arms, and fundamentally, the right to life, liberty, and the pursuit of happiness; and

WHEREAS, The pursuit of happiness can and does take the form of one going into business for oneself, the fulfillment of the American dream; and

WHEREAS, The small business community is represented by some 14 million small and independent businesses; and

WHEREAS, These 14 million businesses represent 100 million people and 58 percent of all private sector jobs in America; and

WHEREAS, Of all newly created jobs in the past seven years, 97 percent have been created among these 14 million small and independent businesses representing 48 percent of American's gross business product; and

WHEREAS, Of all new inventions, innovations, and patents, 50 percent are developed in the small and independent sector of American business; now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly, That the California State Legislature hereby respectfully memorializes the President and Vice President of the United States and the Congress of the United States to recognize the following as the Small and Independent Business Bill of Rights:*

(1) The right to start, own, and manage a business without government interference.

(2) The right to compete fairly for capital with assurance that capital will be available for private use.

(3) The right to reward for the risk, effort, and genius necessary to make an independent business work.

(4) The right to determine price just as the buyer has the right to buy or not at that price.

(5) The right to be governed by reasonable and understandable laws set forth by elected representatives, not by bureaucratic dictate.

(6) The right to be innocent until proven guilty by a jury of our peers, not by administrative edict.

(7) The right to equal representation with big business, big labor, and government on matters relating to America's economic policies; and be it further

*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

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#### RESOLUTION CHAPTER 57

Assembly Joint Resolution No. 79—Relative to integrated pest management.

[Filed with Secretary of State June 30, 1980 ]

WHEREAS, An integrated pest management program is a reliable procedure that, when properly conducted, optimizes crop production in an economically and ecologically sound manner; and

WHEREAS, Those California farmers who participate in new integrated pest management systems are subject to risks flowing from the immediate implementation of such a program; and

WHEREAS, The Federal Crop Insurance Corporation and the Environmental Protection Agency are parties to an interagency agreement to support intensive marketing of federal crop insurance to cotton growers in selected counties in the southeastern United States to facilitate long-term evaluation and promotion of integrated pest management on cotton and other crops; and

WHEREAS, Pursuant to such agreement, the Federal Crop Insurance Corporation provides all risk insurance at a 20 percent premium reduction to specified counties having community integrated pest management projects; and

WHEREAS, One result of such agreement is the collection of actuarial data evaluating the effectiveness of integrated pest management strategies in controlling manageable risks compared to traditional management practices; now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly*, That the Legislature of the State of California respectfully memorializes the United States Congress to set up a pilot project in California wherein the Federal Crop Insurance Corporation provides all risk insurance at a 20 percent premium reduction to

persons following an integrated pest management program; and be it further

*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Manager of the Federal Crop Insurance Corporation.

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## RESOLUTION CHAPTER 58

Senate Concurrent Resolution No. 38—Relative to a memorial to firefighters.

[Filed with Secretary of State July 2, 1980.]

WHEREAS, It has long been recognized that the fire protection profession carries the highest potential of danger; and

WHEREAS, This potential is manifested most clearly when a firefighter is killed in the line of duty while fighting fire; and

WHEREAS, The security of the citizens depends upon the high sense of duty displayed by firefighters; and

WHEREAS, This devotion to duty has resulted in a number of firefighters losing their lives while protecting the lives and property of the citizenry; and

WHEREAS, The Legislature, being the law-creating body and representing the citizens of this state, is in the best position to take cognizance of this devotion to duty; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring*, That the Legislature shall cause to be erected a memorial to firefighters killed in the line of duty which conforms to the present design and landscape of the Capitol building and its grounds, and that this memorial be positioned in a prominent location near the entrance to the State Capitol so that all citizens will be able to acknowledge and recall the ultimate sacrifice of its guardians; and be it further

*Resolved*, That construction and maintenance in perpetuity of the memorial be other than at state expense; and be it further

*Resolved*, That the inscription on the monument appropriately memorialize the selfless devotion of the members of the fire protection profession who lose their lives in the performance of their duties; and be it further

*Resolved*, That such monument be a perpetual memorial to all California firefighters.

## RESOLUTION CHAPTER 59

Senate Concurrent Resolution No. 53—Relative to computing seniority for civil service employees.

[Filed with Secretary of State July 2, 1980.]

WHEREAS, One purpose of the Civil Service Act is to promote and increase economy and efficiency in the state service; and

WHEREAS, Tenure of civil service employment is subject to good behavior, efficiency, the necessity of the performance of the work and the appropriation of sufficient funds; and

WHEREAS, There are instances when it is necessary, because of the elimination or reduction of a function performed by state employees or the lack of funds or it is advisable in the interests of economy, to reduce the staff of one or more state agencies; and

WHEREAS, It is in the best interests of the state to retain the best qualified employees in all classes; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Legislature hereby requests the State Personnel Board to develop guidelines whereby employee performance in all classifications shall be a factor in determining seniority for the order of layoff and the placement of names on reemployment lists; and be it further

*Resolved,* That the State Personnel Board conduct public hearings on proposed employee performance guidelines in a timely manner such that interested parties will have an opportunity to inform the board of suggestions and concerns regarding such guidelines; and be it further

*Resolved,* That the State Personnel Board submit to the Legislature, on or about October 1, 1980, a report of such guidelines it recommends; and be it further

*Resolved,* That the Secretary of the Senate transmit a copy of this resolution to the State Personnel Board.

## RESOLUTION CHAPTER 60

Senate Joint Resolution No. 39—Relative to reconstituted milk.

[Filed with Secretary of State July 3, 1980 ]

WHEREAS, An adequate supply of high quality fresh market milk is of benefit to consumers; and

WHEREAS, Current marketing order provisions require processors to pay the Class I differential on the milk equivalent of all Class I products, regardless of whether they are made from fresh milk or dried milk solids and water; and

WHEREAS, Without existing methods of equalization, all

processors would eventually market a reconstituted milk product; and

WHEREAS, There is no reliable way to determine accurately the ingredient source of a fluid milk product, raising the specter of consumer deception; and

WHEREAS, Without a Class I differential, more dairymen would be forced out of business, possibly resulting in a shortage of milk; now, therefore, be it

*Resolved by the Senate and the Assembly of the State of California, jointly,* That the Legislature of the State of California respectfully requests the United States Department of Agriculture to postpone a decision on amendments to milk marketing orders which would allow reconstituted milk to compete with fresh, fluid milk in order to allow the dairy industry, persons knowledgeable in the health field, and the public generally to submit additional information and comments; and be it further

*Resolved,* That the Secretary of the Senate transmit a copy of this resolution to the Secretary of Agriculture.

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#### RESOLUTION CHAPTER 61

Senate Joint Resolution No. 36—Relative to social security benefits.

[Filed with Secretary of State July 3, 1980 ]

WHEREAS, It has been proposed that social security benefits be made subject to taxation, and that the minimum age for qualifying for social security benefits be increased; now, therefore, be it

*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to oppose any legislation which would tax social security benefits or increase the minimum age for qualifying for social security benefits; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

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#### RESOLUTION CHAPTER 62

Senate Concurrent Resolution No. 58—Relative to state-mandated local programs and procedures.

[Filed with Secretary of State July 3, 1980.]

WHEREAS, The Legislature of the State of California has enacted substantial legislation which has required local government, that is, counties, cities, schools, and special districts, to provide new programs or to expand existing programs or services or to meet certain administrative procedures; and

WHEREAS, These programs, services, and procedures are referred to as "state-mandated programs and procedures"; and

WHEREAS, Many of these state-mandated programs and procedures appeared to be necessary and justified at the time of their enactment; and

WHEREAS, Since such enactment, many of these programs and procedures have not been thoroughly evaluated in order to measure whether they have achieved their intended objectives; and

WHEREAS, The enactment of Senate Bill 90 of 1972 and its successor bills, Proposition 13 of June, 1978, and Proposition 4 of November, 1979, have brought to the attention of the public and Legislature the need to evaluate mandated programs, their cost, and procedures, regardless of when enacted, to determine whether it is appropriate to modify or repeal them or to make them permissive and thus reduce the financial and other burdens in state and local government and to the taxpayers of California; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring*, That the Legislative Analyst shall evaluate the 12 mandates for which the largest appropriations for reimbursement of mandated local costs are included in the 1980-81 Budget Act, provided, however, that the Legislative Analyst shall not reevaluate the mandates imposed by Chapters 89 and 1398 of the Statutes of 1974 or Chapters 593 and 961 of the Statutes of 1975; and be it further

*Resolved*, That the Legislative Analyst shall also evaluate 12 unfunded mandates enacted prior to 1973, of which three mandates each shall be designated by the League of California Cities, the County Supervisors' Association of California, the California Special Districts Association, and the SB 90 school network; and be it further

*Resolved*, That these organizations shall consult with the Legislative Analyst in the selection of these mandates and that any of these organizations may designate less than three and request that one of the others designate additional mandates in its place; and be it further

*Resolved*, That in no event shall the Legislative Analyst be required to study a mandate if these organizations have not designated it for evaluation by October 31, 1980; and be it further

*Resolved*, That the Legislative Analyst shall then evaluate such mandates and make recommendations as to whether they should be repealed, modified, or made permissive; and be it further

*Resolved*, That the Legislative Analyst shall utilize at least the following criteria in evaluating such state mandates:

- (1) To what extent does the mandate serve some statewide

interest as opposed to primarily a local interest that can be served better through local choice and action?

(2) Has the mandate, as implemented, met the Legislature's intent and expectations by achievement of its objectives?

(3) Are there less costly or onerous alternative means of achieving the mandate's objectives?

(4) Is the mandate reimbursed by the state and, if so, how adequately? If not, what is its annual cost to implement? Do such costs bear a reasonable relationship to the statewide benefits resulting from the mandate?

(5) Are there any legal considerations which would prevent the state from modifying or repealing the mandate?; and be it further

*Resolved*, That the Legislative Analyst is requested to submit a report to the Joint Legislative Budget Committee by November 1, 1981, which shall include an evaluation of each such mandate and a recommendation as to whether and how such mandates should be modified or repealed or made permissive; and be it further

*Resolved*, That the Legislative Analyst shall confer and cooperate in the preparation of such report with representatives of local government, labor unions, and others interested in the issues to be evaluated pursuant to this resolution; and be it further

*Resolved*, That the sum of thirty-eight thousand dollars (\$38,000) is hereby allocated from the Contingent Funds of the Assembly and Senate to the Joint Legislative Budget Committee for expenditure to carry out such study; and be it further

*Resolved*, That the Secretary of the Senate transmit a copy of this resolution to the Legislative Analyst.

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## RESOLUTION CHAPTER 63

Senate Concurrent Resolution No. 52—Relative to the Commission on Peace Officer Standards and Training.

[Filed with Secretary of State July 3, 1980 ]

WHEREAS, The Commission on Peace Officer Standards and Training has been created by the Legislature to raise and maintain the competence of local and state law enforcement officers; and

WHEREAS, It is the Legislature's intent that the Commission on Peace Officer Standards and Training accomplish this goal by, among other things, promulgating training standards; and

WHEREAS, The Legislature has identified a need for further enhancement of such training standards for officers who need not meet the Commission on Peace Officer Standards and Training's basic course requirements for peace officers under Sections 13510 and 13510.5 of the Penal Code; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly*

*thereof concurring*, That the Commission on Peace Officer Standards and Training, in consultation with state and local law enforcement agencies and local political entities, is hereby directed to conduct a study of basic training standards for peace officers described in Section 832 of the Penal Code and to adopt a plan of action relating to the development of more appropriate training standards. It is recommended that the sum of fifty thousand dollars (\$50,000) be appropriated by the Legislature to the Commission on Peace Officer Standards and Training from the Peace Officer Training Fund to the budget of the commission to carry out this study; and be it further

*Resolved*, That the Commission on Peace Officer Standards and Training report to the Legislature by January 26, 1982, describing the plan which has been adopted; and be it further

*Resolved*, That the Secretary of the Senate transmit a copy of this resolution to the Commission on Peace Officer Standards and Training.

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#### RESOLUTION CHAPTER 64

Relative to federal funding of the Santa Monica Mountains National Recreation Area.

[Filed with Secretary of State July 9, 1980 ]

WHEREAS, The Federal Government, with the support of the State of California and local governments in Ventura and Los Angeles Counties, authorized the establishment of the Santa Monica Mountains National Recreation Area and provided for its development to expand the recreational and open-space facilities in the Santa Monica Mountains for the public use and enjoyment year-round by nearby urban millions and future local, state, and national generations of citizens of the United States; and

WHEREAS, The present and growing energy shortage with its increasing restraints on travel makes early development of the Santa Monica Mountains National Recreation Area especially important to assure that expanded park and recreational facilities are available for residents of Ventura and Los Angeles Counties as well as American and foreign visitors to Southern California's own particular sunbelt attractions that are beneficial to local, state, and national economies; and

WHEREAS, Timely and uninterrupted development is governed by the availability of federal funding under Public Law 95-625, the National Parks and Recreation Act of 1978, and unforeseen national and international situations that may force delays in completion of the Santa Monica Mountains National Recreation Area to the end of the 1980's or beyond; and

WHEREAS, The President's proposed anti-inflation budget cuts may involve significant reductions in appropriations from the Land and Water Conservation Fund from which the Santa Monica Mountains National Recreation Area will be funded; and

WHEREAS, A delay of possibly another 10 years in the completion of the Santa Monica Mountains National Recreation Area will, due to inflationary impact, inevitably force severe economic losses in purchasing power for parkland acquisitions and development and also will adversely damage the economic well-being of property owners whose property has been publicly scheduled for acquisition by the National Park Service; and

WHEREAS, Urban sprawl continues to rapidly threaten the Santa Monica Mountains, particularly for those areas closest to greater Los Angeles, and any further delay in acquisition for and development of the Santa Monica Mountains National Recreation Area may result in additional critical losses of this distinct and valuable natural resource; and

WHEREAS, Speculative land prices and continued development pressures may make acquisition and development of the most scenic and recreational usable land impossible, unless full funding is promptly and continuously provided for the Santa Monica Mountains National Recreation Area; and

WHEREAS, Reduced funding for the Santa Monica Mountains National Recreation Area will jeopardize the availability of state and local grants pursuant to subsection (n) of Section 507 of the National Park and Recreation Act of 1978, and thereby cripple the effectiveness of the unique grant program component for the recreation area and thus destroy the ability of the local, state, and federal intergovernmental partnership to collectively carry out the objectives for the recreation area; now, therefore, be it

*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and Congress of the United States to restore, as soon as possible, the full appropriation to properly fund the uninterrupted acquisition of land and timely development of the Santa Monica Mountains National Recreation Area according to the original federal authorization; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Secretary of Interior.

## RESOLUTION CHAPTER 65

Senate Joint Resolution No. 29—Relative to SSI/SSP recipients' nonexcludable resources.

[Filed with Secretary of State July 10, 1980 ]

WHEREAS, The maximum amount of nonexcludable resources, such as savings accounts, checking accounts, and savings bonds permitted for eligibility for the SSI/SSP program has been set at one thousand five hundred dollars (\$1,500) for individuals and two thousand two hundred fifty dollars (\$2,250) for couples; and

WHEREAS, This amount has not been increased since the establishment of the program in 1974; and

WHEREAS, The maximum amount for all other categories of assets, such as cars and household possessions permitted for eligibility for the SSI/SSP program have been increased since 1974; and

WHEREAS, The cost of living has risen approximately 47 percent in the United States and approximately 50 percent in California since 1974; and

WHEREAS, The failure to increase the maximum nonexcludable resources for eligibility into the SSI/SSP program has led to genuinely needy elderly persons, upon their initial application, being denied eligibility for the SSI/SSP program; now, therefore, be it

*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact a law providing for an increase in the maximum amount of nonexcludable resources permitted for eligibility under the SSI/SSP program; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

## RESOLUTION CHAPTER 66

Senate Joint Resolution No. 32—Relative to federally mandated municipal services.

[Filed with Secretary of State July 10, 1980 ]

WHEREAS, Congress is empowered to enact legislation which can mandate municipal service charges which must be borne by business and individuals in order to construct, maintain, and operate new facilities which may be required to meet new federal requirements; and

WHEREAS, The Federal Clean Water Act of 1972, as amended, is one such example, in that Section 1284 (b) (1) of the Act (P.L. 92-500) requires that municipal service charges be levied; and

WHEREAS, Current Federal Tax Laws and Internal Revenue Service Regulations allow business, and individuals with business income, to deduct such charges to the extent that they are business expenses in the calculation of their federal tax liability; and

WHEREAS, Current Federal Tax Laws and Internal Revenue Service Regulations prohibit individuals from deducting the same charges when they are associated with their places of residence; and

WHEREAS, To the extent that such charges are involuntary, they amount to a tax in all but name; now, therefore, be it

*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the Congress of the United States to enact a law enabling individuals to generally deduct the cost of such involuntary municipal service charges, imposed by the Congress, from their federal income taxes; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the District Director of the Internal Revenue Service, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 67

Assembly Concurrent Resolution No. 40—Relative to silver nitrate treatment for ophthalmia neonatorum.

[Filed with Secretary of State July 14, 1980.]

WHEREAS, To combat ophthalmia neonatorum, state law presently requires the eyes of newborn children to be treated within two hours of childbirth with a prophylactic efficient treatment; and

WHEREAS, The most widely used prophylactic efficient treatment, silver nitrate, is a known chemical irritant; and

WHEREAS, Many parents do not want any chemicals put into the eyes of or possibly ingested by their children; and

WHEREAS, There is a tremendous amount of time and money expended by hospital personnel, and, at times, physical danger to an infant, where the hospital personnel must attempt to administer the silver nitrate medication, as required by law, over the protests of the parents; and

WHEREAS, The actual efficacy of silver nitrate as a prophylactic efficient treatment for ophthalmia neonatorum, intrinsically and as compared to recently developed antibiotics and other medications, is not known, but could easily be studied and compared for different

populations at Los Angeles County Hospital and one of Kaiser Hospitals' larger installations; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the State Department of Health Services be requested to authorize a study to determine the actual efficacy of silver nitrate as a prophylactic efficient treatment for ophthalmia neonatorum and to compare the efficacy of the chemical to that of medications recently developed to combat ophthalmia neonatorum, and that the findings of such study be submitted to the State Department of Health Services prior to January 1, 1981; and be it further

*Resolved,* That the State Department of Health Services report the findings of such study to the Legislature by January 1, 1981; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the State Director of Health Services.

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#### RESOLUTION CHAPTER 68

Assembly Joint Resolution No. 70—Relative to plant closings.

[Filed with Secretary of State July 14, 1980 ]

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation to prevent or minimize the harmful economic and social effects of unemployment on employees, local businesses, and local governments caused when business concerns or plants close or undertake changes of operations; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

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#### RESOLUTION CHAPTER 69

Assembly Joint Resolution No. 72—Relative to bank protection efforts of the United States Army Corps of Engineers.

[Filed with Secretary of State July 14, 1980.]

WHEREAS, The recent heavy storms caused heavy runoff in our streams and rivers; and

WHEREAS, Sustained high flows in the rivers has caused extensive

damage to levees, banks, riparian habitat, and Class 1 agricultural land; and

WHEREAS, Large oak and eucalyptus trees and other riparian vegetation washed into the river by this erosion are plugging up the channel, reducing its carrying capacity, and further aggravating the problem; and

WHEREAS, An enormous amount of eroded soil is carried down the river, increasing turbidity and filling the channels; and

WHEREAS, The United States Army Corps of Engineers Bank Protection Project would alleviate much of such erosion problem; and

WHEREAS, The corps cannot continue this urgently needed work without state support; now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California declares its support for the bank protection efforts of the United States Army Corps of Engineers and memorializes the corps to hasten its efforts to protect our river banks; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Chief of the United States Army Corps of Engineers, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 70

Assembly Joint Resolution No. 75—Relative to adult basic education.

[Filed with Secretary of State July 14, 1980.]

WHEREAS, The Legislature of this state is aware of the emergency condition developing in California's educational system occasioned by the dramatic increase in recent and continuing arrivals of people in need of elementary and secondary basic skills from other states and other countries; and

WHEREAS, The people of the State of California have assumed a disproportionate share of the responsibility for providing critical, high cost, educational services to these adult citizens and refugees; and

WHEREAS, In a survey of certain adult competencies done by the NOMOS Institute of Hawaii for the Department of Education of this state, those who were raised in homes where a language other than English was spoken, or who had at least one foreign-born parent, showed more deficiencies than any other group in the performance of certain basic competencies; and

WHEREAS, Highly impacted public adult schools in the state have experienced dramatic increases in Indochinese refugee population at an estimated 7,000 to 9,000 immigrants a month; and

WHEREAS, These conditions require that school districts provide intensive and specialized educational assessment, instructional, and counseling services from qualified linguistic specialists, specially trained teachers, and counselors, as well as specialized instructional materials; and

WHEREAS, The provision of these services imposes an unusual, intolerable burden on the already strained budgets of our California school system; and

WHEREAS, Part of this burden has been imposed as a direct result of the humanitarian response of the federal government to the plight of Indochinese refugees; and

WHEREAS, An effective and appropriate instrument under which to immediately fund adult educational assistance is already in existence under Section 306 of Public Law 91-230, known as the Adult Education Act, now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California memorializes the Congress of the United States to give immediate and urgent consideration by way of increased appropriations, to the provision of immediate funding to cover the critical educational expenses of these citizens and refugees in order that our Nation can more appropriately fulfill our commitment to a literate populace in this democracy; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 71

Assembly Joint Resolution No. 80—Relative to Indochinese refugees' health services.

[Filed with Secretary of State July 14, 1980.]

WHEREAS, 14,000 Indochinese refugees are accepted each month for resettlement in the United States; and

WHEREAS, The greatest percentage of the refugees in the United States have initially resettled in California; and

WHEREAS, Many of those refugees who first settled in other states eventually move to California; and

WHEREAS, The medical screening of Indochinese refugees for tuberculosis, leprosy, venereal disease, and enumerated mental

defects and disorders, as conducted by federal agencies, while the refugees are still abroad or on arrival at ports of entry to the United States is inadequate to detect the diseases carried by, and to determine the overall physical condition of, the refugees; and

WHEREAS, Refugees enter the United States without having undergone a complete physical examination or having been educated in personal hygiene and general health care, as practiced in the United States; and

WHEREAS, The failure to detect disease, diagnose physical condition, and educate the refugees may have a long-range adverse impact on the physical well-being of the general population; and

WHEREAS, For the purpose of providing assistance to the Indochinese refugees, the State Departments of Health Services and Social Services have entered into an agreement with the Department of Health and Human Services, concerning health and mental health care services for such refugees, pursuant to the Indochina Migration and Refugee Assistance Act of 1975 (P.L. 94-23 as amended by P.L. 94-313, P.L. 95-145, and HR 12509) and Special Appropriations for Assistance to Refugees from Laos, Cambodia and Vietnam (P.L. 94-23), as amended by Foreign Assistance Appropriation Act (P.L. 94-330); now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and Congress, and specifically The Conference Committee on the Refugee Act of 1979, to make every effort to ensure that funds appropriated for the purpose of implementing these agreements entered into between the State Departments of Health Services and Social Services and the United States Department of Health and Human Services be expeditiously provided to those counties which contain large numbers of Indochinese aliens; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to Representative Elizabeth Holzman, Chairperson of The Conference Committee on Refugee Act of 1979, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 72

Assembly Concurrent Resolution No. 80—Relative to the proposed Mid-Valley Canal.

[Filed with Secretary of State July 15, 1980.]

WHEREAS, The five southern counties of the San Joaquin Valley compose the richest agricultural region in the world, accounting for

approximately 40% of the \$10 billion plus per year agriculture contributes to the state's economy; and

WHEREAS, There is a present overdraft of 1.4 million acre feet per year which must be balanced through the importation of additional surface waters, greater efficiency in use of present water sources, and reclamation in order to maintain a prosperous agricultural and state economy; and

WHEREAS, The federal government, which encouraged a policy of agricultural expansion in the San Joaquin Valley, has dropped further study of the proposed Mid-Valley Canal after an expenditure of approximately \$500,000 and an additional expenditure of \$370,000 by the State of California; and

WHEREAS, Recent Department of Interior action indicates a very improbable prospect of further federal Central Valley Project water service expansion to offset the overdraft in the San Joaquin Valley; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That if the federal government does not reinstate funding to complete the Mid-Valley Canal study by July 1, 1981, the Director of Water Resources is requested to study the canal and submit a report to the Legislature by July 1, 1982, under the following proposals: (1) construction as a state project, (2) construction as a local project, and (3) construction as a state and local or federal project; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Water Resources.

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### RESOLUTION CHAPTER 73

Assembly Concurrent Resolution No. 86—Relative to the calling of a mid-1981 statewide conference on aging.

[Filed with Secretary of State July 15, 1980]

WHEREAS, The Older Americans Act of 1978 calls for a White House Conference on Aging in 1981; and

WHEREAS, The Congress of the United States has appropriated \$3 million for expenditure during fiscal years 1979-1981 for the cost of planning and conducting such conference; and

WHEREAS, There will be an advisory committee appointed along with supporting staff to begin planning and discussions with groups and organizations participating in the conference; and

WHEREAS, The congressional act authorizes the conference to identify the great needs of older persons which will be addressed by the conference and they include:

1. To improve the economic well-being of older individuals.
2. To make comprehensive and quality health care more readily

available to older individuals.

3. To expand the availability of suitable and reasonably priced housing for older individuals together with services needed for independent or semi-independent living.

4. To provide a more comprehensive long-term care policy responsive to the needs of older patients and their families.

5. To promote greater employment opportunities for middle-aged and older individuals who want or need work.

6. To develop a national retirement policy that contributes to the fulfillment, dignity, and satisfactions of retirement; and

WHEREAS, It is the intent of the Legislature of the State of California that such a conference would identify those areas of need as expressed by the United States Congress and further, that other special needs that affect the elderly of California such as day care centers, isolation, foster grandparents, green thumb, and not necessarily limited to items in this resolution; and

WHEREAS, In 1971, the last White House Conference on Aging lacked a united California policy; and

WHEREAS, It is important and significant to the over 3,000,000 elderly in California that a policy of comprehensive planning needs be brought to the forefront and discussed by the various interests and groups of California in a concerted effort and develop a plan that in 1981 can be taken back to Washington for California's position and participation in the White House conference; and

WHEREAS, The California Department of Aging has additionally indicated an interest in this matter; and

WHEREAS, The California Commission on Aging is charged by the Burton Act to be the principal advocate in the state for older persons, and

WHEREAS, The California Commission on Aging has been requested to assist in developing guidelines for holding of local conferences, and developing of plans for the holding of a statewide conference, now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Commission on Aging of the State of California is hereby requested to call a state conference on aging in mid-1981 for the purpose of determining facts about the needs of the elderly and preparing recommendations and plans for action for the White House Conference on Aging in 1981; and be it further

*Resolved,* That the California Commission on Aging is hereby requested to request the various area agencies and commissions on aging throughout the State of California to provide their assistance in this undertaking by holding local community seminars for the purpose of ascertaining facts and developing recommendations and local plans of action in preparation of the statewide conference on aging; and be it further

*Resolved,* That the California Commission on Aging select appropriate dates in March or April of 1981 for this purpose and submit to the Legislature plans for holding local seminars and plans

for the statewide conference with the commission's estimate on the cost of the statewide conference on or before February 1, 1981; and be it further

*Resolved*, That appropriate copies of this resolution be made available by the Chief Clerk of the Assembly to the California Commission on Aging and to all parties and agencies that are directly affected by this resolution; and be it further

*Resolved*, That the California Statehouse Executive Committee, as coordinators of California conference activities, request that the Governor of the State of California: (1) establish a formula by which two-thirds of the delegates from California to the 1981 White House Conference on Aging be elected at the 1981 California Statehouse Conference on Aging; and (2) equitably appoint the remaining one-third of such delegates; and be it further

*Resolved*, That 1,000 statehouse conference delegates be selected at either planning and service area or regional conferences with one-third of such delegates being jointly appointed by the area agencies on aging and advisory councils for the planning and service area or region and two-thirds being elected at the time of the conferences; and be it further

*Resolved*, That in order to meet established criteria, 200 additional statehouse conference delegates be appointed in the following manner: (1) 120 delegates shall be appointed by the Legislature (1 for each member); (2) 20 delegates shall be appointed by the Governor; (3) 10 delegates shall be appointed by the California Department of Aging; and (4) 50 delegates shall be appointed by the California Commission on Aging.

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## RESOLUTION CHAPTER 74

Assembly Concurrent Resolution No. 99—Relative to firefighters.

[Filed with Secretary of State July 15, 1980]

WHEREAS, There has been an escalation in the number of work-related illnesses, injuries and disability retirements; and

WHEREAS, Current statutes may assign liability for the aggravation of a preexisting disease or condition to the current employer; and

WHEREAS, Statistics continue to confirm the fact that firefighting remains the most hazardous occupation; and

WHEREAS, Firefighters are required to physically perform with above-average ability, endurance and superior condition, including occasional demand for extraordinarily strenuous activities in emergencies, under adverse environmental conditions, and over extended periods of time; now, therefore, be it

*Resolved*, by the Assembly of the State of California, the Senate

*thereof concurring*, That the State Board of Fire Services conduct a study to establish voluntary health standards for the selection of individuals into the fire service; who are physically and medically capable of completing the required training and achieving acceptable performance on the job; whose physical condition would not require repeated time loss due to illness; whose physical condition would not be likely to form the basis for physical disability early in the individual's career; and be it further

*Resolved*, That the State Board of Fire Services submit a report of its study, with legislative recommendations, to the Legislature on or before January 1, 1981; and be it further

*Resolved*, That the Chief Clerk of the Assembly transmit a copy of this resolution to the State Board of Fire Services.

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### RESOLUTION CHAPTER 75

Assembly Concurrent Resolution No. 100—Relative to firefighters.

[Filed with Secretary of State July 15, 1980 ]

WHEREAS, A major concern is the accelerated number and cost of work-related illness and injury claims and awards; and

WHEREAS, Current law provides that certain disabling conditions are presumed to result from an industrial injury; and

WHEREAS, Data overwhelmingly supports the correlation between the nature of the job of firefighting and the abnormally high incidence of heart disease in firefighters; and

WHEREAS, Heart-related incidents remain the leading cause of death and disability among firefighters; and

WHEREAS, Standards of good physical condition which are not arbitrary, discriminatory, or unreasonable may be adopted to improve the efficiency of the fire service, and as such be included as a condition of employment; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring*, That the State Board of Fire Services conduct a study to establish a voluntary preventive program of physical fitness that will assure that the good condition required to become a firefighter will be maintained during the years of said firefighter's career and significantly reduce heart-related incidents, the leading cause of death and disability among firefighters; and be it further

*Resolved*, That the State Board of Fire Services submit a report of its study, with legislative recommendations, to the Legislature on or before January 1, 1981; and be it further

*Resolved*, That the Chief Clerk of the Assembly transmit a copy of this resolution to the State Board of Fire Services.

## RESOLUTION CHAPTER 76

Assembly Concurrent Resolution No. 120—Relative to the Joint Rules.

[Filed with Secretary of State July 15, 1980 ]

*Resolved by the Assembly of the State of California, the Senate thereof concurring*, That the Temporary Joint Rules of the Senate and Assembly for the 1979–80 Regular Session be amended as follows:

First—That Rule 37.4 is added, to read:

## Study or Audits

37.4. (a) Notwithstanding any other provision of law to the contrary, the Joint Legislative Audit Committee shall establish priorities and assign all work to be done by the Auditor General.

(b) Any bill requiring action by the Auditor General shall contain an appropriation for the cost of any study or audit.

(c) Any bill or concurrent, joint, Senate, or house resolution assigning a study to the Joint Legislative Audit Committee or to the Auditor General shall be referred to the respective rules committees. Before the committees shall act upon or assign the bill or resolution they shall obtain an estimate from the Joint Legislative Audit Committee of the amount required to be expended to make the study.

Second—That Rule 37.5 is added, to read:

## Waiver

37.5. The provisions of subdivision (b) of Rule 37.4 may be waived by the Joint Legislative Audit Committee. The chairman of the committee shall notify the Secretary of the Senate, the Chief Clerk of the Assembly, and the Legislative Counsel in writing when the provisions of subdivision (b) of Rule 37.4 have been waived. If the cost of a study or audit is less than one hundred thousand dollars (\$100,000), the chairman of the committee may exercise the committee's authority to waive the provisions of subdivision (b) of Rule 37.4.

## RESOLUTION CHAPTER 77

Senate Constitutional Amendment No. 37—A resolution to propose to the people of the State of California an amendment to the Constitution of the state, by amending Section 4 of Article III thereof, relating to judges.

[Filed with Secretary of State July 17, 1980 ]

*Resolved by the Senate, the Assembly concurring,* That the Legislature of the State of California at its 1979–80 Regular Session commencing on the fourth day of December, 1978, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the state be amended by amending Section 4 of Article III thereof, as follows:

SEC. 4. (a) Except as provided in subdivision (b), salaries of elected state officers may not be reduced during their term of office. Laws that set these salaries are appropriations.

(b) Beginning on January 1, 1981, the base salary of a judge of a court of record shall equal the annual salary payable as of July 1, 1980, for that office had the judge been elected in 1978. The Legislature may prescribe increases in those salaries during a term of office, and it may terminate prospective increases in those salaries at any time during a term of office, but it shall not reduce the salary of a judge during a term of office below the highest level paid during that term of office. Laws setting the salaries of judges shall not constitute an obligation of contract pursuant to Section 9 of Article I or any other provision of law.

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### RESOLUTION CHAPTER 78

Senate Concurrent Resolution No. 50—Relative to John T. Knox Freeway.

[Filed with Secretary of State July 17, 1980 ]

WHEREAS, Assemblyman John T. Knox has served as a Member of the Assembly since 1960 and is presently serving as Speaker pro Tempore; and

WHEREAS, As Assemblyman representing the Eleventh Assembly District including the City of Richmond, he has actively supported the construction of a freeway which will support the developing port and marina facilities and connect to the Richmond-San Rafael Bridge; and

WHEREAS, John T. Knox, along with other influential legislators, was successful in upgrading the highway project to an interstate freeway; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That Interstate 180 from the Richmond-San Rafael Bridge to the Albany interchange is hereby officially designated the John T. Knox Freeway; and be it further

*Resolved,* That the Department of Transportation be directed to erect appropriate plaques and markers, consistent with signing requirements for the state highway system, showing this official

designation; and be it further

*Resolved*, That the Secretary of the Senate transmit a copy of this resolution to the Director of Transportation.

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### RESOLUTION CHAPTER 79

Senate Concurrent Resolution No. 86—Relative to proclaiming July 18, 1980, as POW/MIA Recognition Day.

[Filed with Secretary of State July 17, 1980 ]

WHEREAS, In each of America's past wars, our prisoners of war have represented a special sacrifice; and

WHEREAS, On them has fallen an added burden of loneliness, trauma, and hardship; and

WHEREAS, Their burden becomes double when there is inhuman treatment by the enemy in violation of common human compassion, ethical standards, and international obligations; and

WHEREAS, As we now enjoy the blessings of peace, it is appropriate that all Californians recognize the special debt owed those Americans held prisoner during wartime; and

WHEREAS, It is also important that we remember the unresolved casualties of war, our fighting men who are missing; and

WHEREAS, The pain and bitterness of war endures for the families, relatives, and friends of those whose fate is unknown; and

WHEREAS, The President of the United States, together with the Congress of the United States, have proclaimed July 18, 1980, as National POW/MIA Recognition Day, a day dedicated both to all former prisoners of war as well as those still missing and to their families; and

WHEREAS, The President and Congress have called on all states to enact similar proclamations; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring*, That July 18, 1980, shall be proclaimed in the State of California as POW/MIA Recognition Day, and that the Legislature urges all California citizens, local government entities, and private organizations to participate therein with appropriate ceremonies and activities.

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### RESOLUTION CHAPTER 80

Assembly Concurrent Resolution No. 153—Relative to the San Diego-Coronado Bridge.

[Filed with Secretary of State July 17, 1980 ]

WHEREAS, KGB Radio (San Diego) plans to sponsor a walkathon on November 15, 1980, for the purpose of raising funds to benefit the Leukemia Society of America, San Diego Chapter; and

WHEREAS, In order to stimulate interest in this event, the station desires to include the San Diego-Coronado Bridge as part of the course over which participants will walk; and

WHEREAS, It appears to be in the best interests of the people of the Cities of San Diego and Coronado, and of the State of California as a whole, to encourage activities such as those carried on by the Leukemia Society of America; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Department of Transportation is hereby requested to permit the use of the San Diego-Coronado Bridge on November 15, 1980, by the closing of necessary lanes, for the period of time necessary for its use as part of the course for a walkathon sponsored by the KGB Radio (San Diego) to raise funds for the Leukemia Society of America, San Diego Chapter, if the department is requested to do so by the Cities of San Diego and Coronado in accordance with Sections 21101 and 21104 of the Vehicle Code; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the Secretary of the Business and Transportation Agency and to the Director of Transportation.

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## RESOLUTION CHAPTER 81

Assembly Joint Resolution No. 54—Relative to recreational boating.

[Filed with Secretary of State July 17, 1980.]

WHEREAS, Many Californians who have increased leisure time are turning more and more to recreational activities, including boating; and

WHEREAS, California has 1,800 miles of coastline and numerous dams, lakes, and rivers which are available to all its residents; and

WHEREAS, Boating is a family oriented sport that is energy efficient and not destructive to the environment; and

WHEREAS, There are more than 600,000 registered motorboats and sailboats in California which is the largest number for any state in the nation; and

WHEREAS, This fact has greatly increased the demand on recreational boating facilities in the past few years; and

WHEREAS, This demand has resulted in a shortage of 10,000 berthing spaces in southern California alone; and

WHEREAS, The lack of boating facilities has begun to have a

depressing impact on California's boating industry, which contributes heavily to the state's economy; and

WHEREAS, The direct financial impact of the boating industry and marinas in California was five hundred thirty-five million dollars (\$535,000,000) in 1977; and

WHEREAS, The indirect financial impact of the boating industry in California was one billion two hundred million dollars (\$1,200,000,000) in 1977 as a result of its economic stimulus; and

WHEREAS, Almost 16,000 persons are directly employed in the boating industry and 31,000 people are employed in jobs related to the boating industry; and

WHEREAS, The shortage of boating facilities has resulted in part from the difficulty of securing permits to build new facilities and upgrade existing ones; and

WHEREAS, Local, regional, state, and federal laws and regulations have hampered the growth of the marine industry and restricted the full use of California waterways for the state's boating population; now, therefore, be it

*Resolved by the Assembly and the Senate of the State of California, jointly,* That local, regional, state, and federal governmental entities are hereby requested to affirmatively seek the development of recreational boating facilities in California; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the Secretary of the Interior, the Governor of the State of California, the Secretary of the Resources Agency, the Director of the Department of Boating and Waterways, the California Coastal Commission, the Los Angeles Harbor Commission, and to the chairman of the board of supervisors of each county within the State of California.

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## RESOLUTION CHAPTER 82

Assembly Joint Resolution No. 89—Relative to the Philippine Scouts.

[Filed with Secretary of State July 17, 1980 ]

WHEREAS, Congress has under consideration legislation to correct a longstanding inequity in our treatment of the survivors of the Philippine Scouts who fought alongside American soldiers during World War II and who, although they were a part of the United States Army and fought and died along with their American counterparts, never received the same pay or benefits; and

WHEREAS, This kind of flagrant discrimination was sad reward indeed for their heroic sacrifices, and the enactment of this legislation would be a clear message to Filipino-Americans and people throughout the world that our commitment to justice and

equality is not parochial and is basic to our conception of universal human rights; and

WHEREAS, In the late 1930's, the Philippine scouts were made a part of the United States Army to help defend the South Pacific against totalitarian domination and General Douglas MacArthur described the Scouts as "excellent troops, completely professional, loyal and devoted," since they were an elite organization with a high esprit de corps in which membership was considered an honor by Filipinos and the strictest standards were followed in selection; and

WHEREAS, General Wainwright, who took command of forces on Bataan and Corregidor after General MacArthur moved Army headquarters to Australia, reported that by the beginning of December 1941, the "Philippine Scouts were fit, trained in combat principles, and ready to take the field in any emergency"; and

WHEREAS, At the onslaught of the war in the Pacific when the enemy attacked Pearl Harbor and invaded the Philippine Islands, these soldiers became a key to the success of our entire South Pacific strategy, for it was the continued resistance on Bataan that denied the Japanese an essential base for the projected thrust to the South Pacific, and they were forced to retain large Army and Navy Forces in the Philippines, which otherwise could have been employed against allied shipping of men and materials to Australia and New Caledonia from the United States and the Middle East, so that the protracted defense of these islands by the Philippine Scouts against incredible odds allowed the United States time to recover from the first blows of the war and begin to send in supplies and reinforcements; and

WHEREAS, The defenders of Bataan were hopelessly outnumbered and undersupplied, endured severe hardships during their entrenchment, and were already in need of new issues of clothing and shoes when they entered Bataan in January, and, as General Wainwright reported, most of the soldiers "walked into Bataan barefooted," with disease and starvation problems dealt with daily, since at least 30 percent of the troops had dysentery, and the rest some variety of worm infestation of the bowel, so that by mid-March at least 75 percent of the command was incapacitated to some extent, but for four months they held out, fighting the enemy guerrilla fashion, buying time for an allied force build-up in Australia; and

WHEREAS, With all the hardships endured by these soldiers, they never received the comparable benefits they were due, and as Brigadier General W. E. Brougher, Commander of the 11th Division on Bataan, pointed out in his prison diary, the moral factor that most disturbed him was "discrimination against Philippine Scouts officers by the United States Army Forces in the Far East in matters of promotion, pay and allowances," since despite their gallant service and tremendous suffering, the Philippine Scouts received only a fraction of the pay and benefits received by their American counterparts, and that discrimination continues today; and

WHEREAS, It is time to rectify this longstanding wrong by the enactment of pending legislation which would authorize pay and benefits for members of the Philippine Scouts or their survivors at the same rates of basic pay as other members of the United States Army of corresponding grades and lengths of service received at that time; now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and Congress to support and enact legislation which would authorize pay and benefits for members and survivors of members of the Philippine Scouts on the same basis as such pay and benefits are authorized for other members of the United States Army and their survivors; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

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### RESOLUTION CHAPTER 83

Assembly Joint Resolution No. 93—Relative to federal summer job programs.

[Filed with Secretary of State July 17, 1980.]

WHEREAS, Federal guidelines under the Comprehensive Employment and Training Act have been construed to require, in the determination of which areas of the City of Los Angeles will receive federal funds for summer jobs, that the city use last year's unemployment rate and apply it to 1970 census data; and

WHEREAS, Population information gathered in 1977 for the city's Public Employment and Housing Survey, which has been used in the past for other federal programs, provides a better basis for allocating programs and services to the needy; now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California requests the federal government to permit the City of Los Angeles to use population information gathered in 1977 for the Public Employment and Housing Survey, or its equivalent, to determine summer job programs; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the United States Department of Labor and to the California Economic Development Administration.

## RESOLUTION CHAPTER 84

Senate Concurrent Resolution No. 64—Relative to the Daniel D. Mikesell Interchange.

[Filed with Secretary of State August 19, 1980.]

WHEREAS, Daniel D. Mikesell, in the early part of 1955, was able to get a resolution adopted by the San Bernardino County Board of Supervisors urging the State of California to place the Devore Cutoff in the California freeway and expressway system; and

WHEREAS, In order to achieve support for this measure, he addressed chambers of commerce and city councils and other organizations from Bishop to Corona, from Needles to Pasadena, and from Newport to Fontana, to secure endorsements for the construction of the Devore Freeway (State Highway Route 15); and

WHEREAS, These endorsements and resolutions, including those of four major counties affected by this development, Los Angeles, Orange, Riverside, and San Bernardino, were used by Supervisor Mikesell in making presentations before the various committees of the Assembly and the Senate in Redding, Eureka, San Diego, Los Angeles, Riverside, and San Francisco, as well as in his many appearances before the Legislature in Sacramento; and

WHEREAS, The Devore Freeway route was ultimately adopted by the state and later recommended by the state to become part of the National System of Interstate and Defense Highways, at which time Supervisor Mikesell worked with the California Department of Transportation and the Federal Highway Administration to include the Devore Freeway route in that system; and

WHEREAS, Now this very important freeway route, saving 14 miles of travel one way, is of tremendous benefit to the traveling public in saving motor vehicle operating costs by shortening the route of travel; and

WHEREAS, It is altogether fitting that the untiring efforts of Supervisor Mikesell with respect to the Devore Freeway be given recognition; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the interchange located at the intersection of Interstate Routes 10 and 15 be designated the Daniel D. Mikesell Interchange; and be it further

*Resolved,* That the Department of Transportation is hereby requested to erect appropriate plaques and markers showing this official designation; and be it further

*Resolved,* That the Secretary of the Senate transmit a copy of this resolution to the Director of Transportation.

## RESOLUTION CHAPTER 85

Assembly Concurrent Resolution No. 134—Relative to diesel fuel for agriculture.

[Filed with Secretary of State August 20, 1980.]

WHEREAS, Agriculture is the number one industry in the number one agriculture-producing state in the nation; and,

WHEREAS, California agriculture requires a considerable amount of diesel fuel to grow the high quality food and fiber for this country and the world; and

WHEREAS, Self-imposed diesel fuel allocation practices by crude oil refiners have resulted in undue hardship on the agricultural industry; and,

WHEREAS, The state should not unnecessarily interfere with the existing market mechanisms for allocating diesel fuel; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the members urge the refiners and distributors of diesel fuel to provide the total current needs of diesel fuel to persons engaged in agricultural production and transportation activities, unless undue hardship would be placed upon persons with equal or higher priority needs; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Energy, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

## RESOLUTION CHAPTER 86

Assembly Concurrent Resolution No. 154—Relative to the Vincent Thomas Bridge.

[Filed with Secretary of State August 20, 1980 ]

WHEREAS, October 19, 1980, marks the occasion of the running of a marathon, the proceeds of which will benefit the YMCA of San Pedro; and

WHEREAS, The sponsor of the run is the YMCA of San Pedro, a group which provides activities for youth of the area; and

WHEREAS, Cooperation has been received from the Department of the California Highway Patrol, the Department of Transportation, and the Los Angeles Police Department to make this an outstanding race; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Department of Transportation is

hereby requested to authorize the closure of one lane of the Vincent Thomas Bridge for the period of time necessary to permit its use as part of the course for a marathon run sponsored by the YMCA of San Pedro on October 19, 1980, if the department is requested to do so by the City Council of the City of Los Angeles in accordance with Sections 21101 and 21104 of the Vehicle Code; and be it further

*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the Secretary of the Business and Transportation Agency and the Director of Transportation.

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### RESOLUTION CHAPTER 87

Assembly Joint Resolution No. 78—Relative to commercial whaling.

[Filed with Secretary of State August 20, 1980.]

WHEREAS, Most of the populations of the world's whales are still depleted and in jeopardy; and

WHEREAS, Commercial whaling continues by countries that are members of the International Whaling Commission and by some that are not; and

WHEREAS, There are substitutes readily available for every use made of whale products; and

WHEREAS, A majority of nations in the International Whaling Commission voted for moratorium on commercial whaling at last year's meeting (but not enough to meet the required three-fourths majority); and

WHEREAS, The public appreciation for living whales continues to increase; and

WHEREAS, Pressures on whale habitat are increasing from mineral exploration, development, and transportation; now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly*, That the United States press vigorously for passage of a moratorium on commercial whaling at the next annual meeting of the International Whaling Commission, which will be held in Brighton, England, on July 21 to 26, 1980; and be it further

*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, the Secretary of the Interior, the Secretary of Commerce, the Secretary of State, the Assistant Secretary of State for Oceans and International Environmental and Scientific Affairs, the Council on Environmental Quality, the Marine Mammal Commission, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

## RESOLUTION CHAPTER 88

Assembly Concurrent Resolution No. 102—Relative to traffic safety.

[Filed with Secretary of State August 22, 1980.]

WHEREAS, Beginning in October 1975, the California Department of Transportation, under contract with the Office of Traffic Safety, has furnished traffic engineering services to small cities; and

WHEREAS, This program has been funded entirely with federal funds under the provisions of Traffic Safety Project Agreement Number 137601; and

WHEREAS, This project agreement terminates on September 30, 1980; and

WHEREAS, This program has provided basic traffic engineering studies and inventories of highway deficiencies, trained local traffic technicians, provided continuity and long-range supervision, and assisted cities to commit increased attention and resources to traffic safety; and

WHEREAS, This program has reduced traffic accidents with their attendant injuries and property losses as well as reducing congestion and traffic delays; and

WHEREAS, The department is the only statewide source of trained professional traffic engineers; and

WHEREAS, Termination of this program will eliminate continued benefits to smaller cities and will lessen the effectiveness of the fine work which has been accomplished to date; and

WHEREAS, There remain many cities in the state which have not yet received the benefits of this program; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Department of Transportation is hereby requested to continue this program of furnishing traffic engineering services to cities; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the Secretary of Business and Transportation Agency, the Director of Transportation, and the California Transportation Commission.

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 RESOLUTION CHAPTER 89

Assembly Concurrent Resolution No. 117—Relative to autism.

[Filed with Secretary of State August 22, 1980 ]

WHEREAS, The developmental disability known as autism in its various forms affects approximately 15 children out of every 10,000 births; and

WHEREAS, Autism is one of the most severe forms of developmental disability resulting in great emotional stress on parents and high costs of treatment; and

WHEREAS, The onset of the behaviors collectively comprising autism is in the early years of life; and

WHEREAS, Early symptoms include all or most of the following behaviors:

Extreme emotional detachment from parents;

Failure to develop appropriate speech;

Failure to play appropriately with toys or peers;

A suspected deficiency in sensory functions such as vision or hearing;

Excessive amounts of repetitive and stereotypical motor behavior; and

Frequent excessive tantrums; and

WHEREAS, Such early signs of the condition are subtle and are often not easily nor readily discernible by parent observers and physicians; and

WHEREAS, The experience of professional care providers has shown that early identification and treatment of persons with autism positively alters the course of the condition; and

WHEREAS, Early identification and treatment of autism prevents unnecessary erosion of parent/child relationships resulting from unwarranted feelings of guilt and responsibility; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the State Department of Developmental Services, in conjunction with the State Department of Health Services, the California Medical Association, the California Psychological Association, the California Association for the Autistic and experts in the diagnosis of autism in the State of California, prepare a draft of a pamphlet on early identification of autism which could be distributed to pediatricians and clinics serving newborns and the patients of such physicians and clinics; and be it further

*Resolved,* That the pamphlet shall include resource information for parents who suspect the presence of autism; and be it further

*Resolved,* That the State Department of Developmental Services develop a plan for distribution of the pamphlet so that the pamphlet will be available to as large a number of parents of newborns as possible and to all physicians certified by the Board of Medical Quality Assurance as pediatricians; and be it further

*Resolved,* That the State Department of Developmental Services submit the draft of the pamphlet and the plan for distribution to the Assembly Permanent Subcommittee on Mental Health and Developmental Disabilities and the Senate Committee on Health and Welfare by January 1, 1981; and be it further

*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the Director of Developmental Services.

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## RESOLUTION CHAPTER 90

Assembly Concurrent Resolution No. 127—Relative to the California Exposition and State Fair.

[Filed with Secretary of State August 22, 1980.]

WHEREAS, California's agriculture is a 10 billion dollar a year industry accounting for over 10 percent of the nation's agricultural exports, and will continue to grow in importance to the state, nationally and internationally; and

WHEREAS, The economic, social, environmental, and energy-related questions surrounding the production of food and fiber will be among the primary issues facing the nation and the world in the coming decades; and

WHEREAS, The 125-year institution of the state fair and its setting at the exposition ground is seen as potentially one of the best of possible contexts for the urban public's encounter with the land and its resources and its contribution to California's traditions and cultures, as well as its new and innovative features; and

WHEREAS, The presently uncompleted exposition grounds would be a highly appropriate setting for major exhibitions oriented to California's importance in international agriculture; and

WHEREAS, Under the theme of agriculture, Cal Expo is offered the opportunity to be of statewide significance; and

WHEREAS, The state fair is an important social institution and should be enhanced to showcase the best of California's local fairs; and

WHEREAS, The California Exposition and State Fair facility is unique in state government and therefore requires an organizational structure reflecting an efficient, businesslike orientation, thereby ensuring continuity and credibility on the part of management; and

WHEREAS, Management of the California Exposition and State Fair should have as its goal the operation of the facility on at least a break-even basis; and

WHEREAS, The success of the facility requires significant involvement and support from both the public and private sectors; and

WHEREAS, A commitment of support by the state for the new Master Plan for the California Exposition and State Fair is necessary before participation by the private sector will occur; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring*, That the State of California demonstrate its

commitment to the vitality of the California Exposition and State Fair by continuing to appropriate funds to the facility so long as it shows progress in achieving its goal of self-sufficiency under progressive management.

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## RESOLUTION CHAPTER 91

Assembly Concurrent Resolution No. 129—Relative to Silver-Haired Legislature.

[Filed with Secretary of State August 22, 1980.]

WHEREAS, California with 3 million senior citizens leads the nation as the state with the greatest number of elderly retired residents; and

WHEREAS, Older persons experience serious economic difficulties due to the effects of inflation on their limited retirement incomes; and

WHEREAS, The Legislature each session attempts to address these problems with the introduction of a wide variety of proposals aimed at specific aging issues; and

WHEREAS, We are in a period of diminishing public resources which increasingly limits the state's ability to adequately respond to all of the diverse needs of the elderly; and

WHEREAS, These circumstances require the setting of priorities regarding which aging programs and services are most vital to establish or maintain; and

WHEREAS, Older people, aware of the state's economic condition and knowledgeable about their own situation, deserve the opportunity to speak with a unified voice to the Legislature in setting priorities; and

WHEREAS, The Silver-Haired Legislature as a model legislative session has proven successful in Florida, Georgia, Indiana, Iowa and Missouri; and

WHEREAS, The Silver-Haired Legislature will offer older Californians the forum for setting their legislative priorities; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the California Commission on Aging is hereby requested to call a 1980 Silver-Haired Legislature which shall be comprised of persons elected as delegates from all areas of California to represent their peers in a model legislative session in the State Capitol. The delegates to the Silver-Haired Legislature shall propose and debate legislation which affects the lives of elderly Californians. They shall then select, among those bills passed, the legislation which is of the greatest priority to them; and be it further

*Resolved,* That a report of the proceedings of the 1980

Silver-Haired Legislature be presented to the Legislature; and be it further

*Resolved*, That if the Legislature deems it worthwhile, the event shall be conducted annually; and be it further

*Resolved*, That copies of this resolution be made available to the California Commission on Aging and the Department of Aging and to all parties and agencies that are directly affected by this resolution.

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## RESOLUTION CHAPTER 92

Assembly Concurrent Resolution No. 137—Relative to the William Byron Rumford Freeway.

[Filed with Secretary of State August 22, 1980.]

WHEREAS, William Byron Rumford, Sr. is an outstanding individual who has an exemplary record of public service to his community, state, and nation; and

WHEREAS, William Rumford was a pharmacy graduate of the University of California in 1931 and has been the owner and operator of Rumford's Pharmacy in Berkeley since 1946; and

WHEREAS, In his professional life, he has worked eight years as a pharmacist at Highland Hospital in Oakland and one year for the California State Department of Public Health; and

WHEREAS, Appointed to the Berkeley Emergency Housing Commission during World War II and to the Regional Rent Control Board in 1944 by Governor Earl Warren, William Byron Rumford was first elected to the California Legislature in 1948 where he served for 18 years; and

WHEREAS, Serving 15 years as Chairman of the Assembly Committee on Public Health, he authored legislation to provide free polio vaccine shots to millions of Californians in 1955, to enact the "Good Samaritan" act, and to provide for many other influential programs, including the establishment of the California Fair Employment Practices Commission in 1959 and the enactment of the Fair Housing Act; and

WHEREAS, William Rumford has also served six years as the Assistant Director for Consumers Protection and State-Federal Relations for the Federal Trade Commission in Washington, D.C., has served as the secretary for the Democratic State Central Committee, and presently serves as a member of the Democratic State Central Committee; and

WHEREAS, He continued his education at the University of California at Berkeley and received a B.A. degree in political science in 1948 and an M.A. degree in public administration in 1956; and

WHEREAS, Serving in many community organizations, he has maintained an active involvement in local affairs and has received

numerous awards since being named Man of the Year by the Urban League in 1949; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring*, That Route 24 between Route 580 in Oakland and the Caldecott Tunnel is hereby officially designated the William Byron Rumford Freeway in honor of William Byron Rumford, Sr.; and be it further

*Resolved*, That the Department of Transportation erect appropriate markers and plaques, consistent with signing requirements for the state highway system, showing this official designation; and be it further

*Resolved*, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation.

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### RESOLUTION CHAPTER 93

Assembly Concurrent Resolution No. 138—Relative to the Marina Del Rey Freeway.

[Filed with Secretary of State August 22, 1980.]

*Resolved by the Assembly of the State of California, the Senate thereof concurring*, That the Department of Transportation is hereby requested to expeditiously remove the construction project dirt pile and other debris remaining on the right-of-way near the Lincoln Boulevard off ramp of the Marina Del Rey Freeway (State Highway Route 90); and be it further

*Resolved*, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation.

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### RESOLUTION CHAPTER 94

Senate Constitutional Amendment No. 33—A resolution to propose to the people of the State of California an amendment to the Constitution of the State, by amending Section 9 of Article V thereof, relating to state officers.

[Filed with Secretary of State August 22, 1980 ]

*Resolved by the Senate, the Assembly concurring*, That the Legislature of the State of California at its 1979-80 Regular Session commencing on the fourth day of December, 1978, two-thirds of the members elected to each of the two houses of the Legislature voting therefor, hereby proposes to the people of the State of California that the Constitution of the state be amended by amending Section 9 of Article V as follows:

SEC. 9. The Lieutenant Governor shall have the same qualifications as the Governor.

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RESOLUTION CHAPTER 95

Senate Joint Resolution No. 43—Relative to the siting of the Naval Regional Medical Center in San Diego, California.

[Filed with Secretary of State August 25, 1980.]

WHEREAS, It is desirable to achieve a resolution of the continuing divisive controversy surrounding the siting of the proposed Naval Regional Medical Center in the City of San Diego, County of San Diego, State of California; and

WHEREAS, The Legislature of the State of California supports the federal policy of promoting energy conservation; and

WHEREAS, The construction of the proposed medical facility is an irreversible commitment of resources; and

WHEREAS, The decision concerning the siting of the proposed medical facility will have a profound impact on the people of the San Diego region, the United States Navy, and the citizens of the United States; now, therefore, be it

*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and Congress of the United States, the Secretary of Defense, the Secretary of the Navy, the Chief of Naval Operations, the Commandant of the 11th Naval District, and the Mayor and City Council of the City of San Diego to cooperate in the review of available alternate sites to determine the optimum location for the proposed Naval Regional Medical Center in the City of San Diego, State of California, taking into consideration all of the following matters:

(1) Presidential executive orders requiring that when federal facilities are established in urban areas consideration shall be given to a centralized community business area and adjacent areas of similar character, including other specific areas which may be recommended by local officials;

(2) The desirability of conservation and revitalization of existing urban resources, including urban parklands;

(3) The necessity for energy efficiency in a large regional capital investment;

(4) Time constraints concerning the immediacy of need for the proposed medical facility;

(5) Economic efficiency concerning the size and location of the proposed medical facility;

(6) The impact of construction of the medical facility on environmental and employment conditions and needs;

(7) The enhancement of the quality of life for the citizens of the San Diego region;

(8) Preservation of open space in urban areas;

(9) Control and reduction of air pollution;

(10) The impact of the proposed medical facility on traffic conditions in the immediate and adjacent areas;

(11) The creation and maintenance of conditions under which man and nature can exist in productive harmony and fulfill the social, economic, and other requirements of present and future generations of Americans;

(12) The promotion of good will between the Navy and the citizens and elected officials of the City of San Diego, all for the public good; and be it further

*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, to the Secretary of Defense, to the Secretary of the Navy, to the Chief of Naval Operations, to the Commandant of the 11th Naval District, and to the Mayor and City Council of San Diego, California.

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#### RESOLUTION CHAPTER 96

Senate Concurrent Resolution No. 77—Relative to highway signs for California National Guard Armories.

[Filed with Secretary of State August 25, 1980 ]

WHEREAS, Historically, National Guard armories have served as places of refuge for the public in time of emergency or natural disaster; and

WHEREAS, It is essential that citizens evacuating a disaster area or seeking aid in an emergency be able to locate an assistance center as rapidly and easily as possible; and

WHEREAS, Major highway arteries are projected to be the most frequently used evacuation routes; and

WHEREAS, Highway users rely on road signs as their most important source of information for needed services; and

WHEREAS, The Office of Emergency Services has officially designated 25 California National Guard armories as congregate care centers or disaster assistance centers; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring*, That the Legislature hereby requests that the Department of Transportation erect appropriate and sufficient highway signs to direct the public using the highways of this state to the location of the 25 California National Guard armories previously designated by the Office of Emergency Services and the Military

Department as congregate care centers or disaster assistance centers; and be it further

*Resolved*, That the Secretary of the Senate transmit a copy of this resolution to the Director of Transportation.

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## RESOLUTION CHAPTER 97

Senate Concurrent Resolution No. 63—Relative to cultural resources.

[Filed with Secretary of State August 28, 1980.]

**WHEREAS**, California's varied cultural resources are unique and irreplaceable; and

**WHEREAS**, California's cultural resources provide the citizens of this state with a sense of our history and identity; and

**WHEREAS**, The state should provide leadership in preserving, restoring, and maintaining the historic and cultural environment of California; and

**WHEREAS**, Preservation of California's cultural resources will also encourage education, recreation, craftsmanship, employment, protection of scarce natural resources, and energy conservation; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring*, That the State Historic Preservation Officer is requested to initiate procedures as soon as possible to assist state and federal agencies in preserving and maintaining all state-owned and federally-owned sites under their jurisdiction, including known Native American burial places, eligible for listing on the National Register of Historic Places; and be it further

*Resolved*, That, not later than July 1, 1983, state agencies are requested to inventory all significant historic and cultural sites, structures, and objects under their jurisdiction over 50 years of age, including known Native American burial places, which may qualify for listing on the National Register of Historic Places and to provide such inventory to the State Historic Preservation Officer; and be it further

*Resolved*, That, until such time as this inventory is completed, state agencies shall ensure, and federal agencies are requested to ensure, that any property which might qualify for listing is not inadvertently transferred or substantially altered; and be it further

*Resolved*, That the State Historic Preservation Officer encourage, in cooperation with local governmental agencies, a similar inventory of sites owned by local government, including known Native American burial places, which might qualify for listing on the National Register of Historic Places; and be it further

*Resolved*, That the Secretary of the Senate transmit a copy of this

resolution to the State Historic Preservation Officer.

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RESOLUTION CHAPTER 98

Senate Joint Resolution No. 38—Relative to drug labeling.

[Filed with Secretary of State August 28, 1980.]

WHEREAS, The Legislature of the State of California recognizes that drug products may contain inactive ingredients intended to facilitate the manufacture of, or otherwise affect, such drug products; and

WHEREAS, The Legislature of the State of California believes that some inactive ingredients may have the potential to cause unintended effects upon the patient, either directly or indirectly, via an effect upon the drug product itself; and

WHEREAS, The Legislature of the State of California believes that the citizens of this state have a right to know the full contents of the drugs they consume; and

WHEREAS, The Legislature of the State of California believes that drug labels should disclose all information necessary to promote the safe and effective use of drug products; and

WHEREAS, The Legislature of the State of California believes that the advantages of such labeling requirements should be enjoyed by all the citizens of the United States; and

WHEREAS, The Congress of the United States is currently considering comprehensive legislation to overhaul the existing drug regulatory law enforced by the Food and Drug Administration which should require such labeling; and

WHEREAS, The Legislature of the State of California believes that drug ingredient labeling requirements should cover all drug products moving in interstate commerce; now, therefore, be it

*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the Congress of the United States to enact such drug product labeling provisions at the current session in order to enhance and protect the public health and to include therein authority for the Secretary of Health and Human Services to require drug manufacturers or drug distributors to include, upon sale, written information stating the name of any component that is contained in a drug product; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to the Secretary of Health and Human Services, and to each Senator and Representative from California in the Congress of the United States.

## RESOLUTION CHAPTER 99

Assembly Concurrent Resolution No. 96—Relative to mobilehomes and seismic safety.

[Filed with Secretary of State August 28, 1980.]

**WHEREAS**, Earthquakes cause costly damages to mobilehomes that are not properly protected structurally and are not properly anchored; and

**WHEREAS**, Many people who live in mobilehomes are senior citizens and handicapped persons who live on fixed incomes and cannot afford repairs or devices to lessen the effects of an earthquake; and

**WHEREAS**, The Seismic Safety Commission has prepared a report on the dollar losses and damages of mobilehomes from earthquakes and has submitted appropriate copies to the Department of Housing and Community Development for consideration; and

**WHEREAS**, There is a need for the formulation of rules and regulations for the manufacture of affordable devices to anchor and protect mobilehomes from the effects of earthquakes; and

**WHEREAS**, There are no existing rules or regulations protecting mobilehomes or their owners and tenants from the effects of earthquakes; and

**WHEREAS**, There is a need for a study concerning the formulation and establishment of rules and regulations to structurally protect mobilehomes and their owners and tenants from the effects of earthquakes; and

**WHEREAS**, Pursuant to Section 50464 of the Health and Safety Code, the Department of Housing and Community Development may make investigations of housing and community development in California; call conferences of representatives of all levels of government, industry, and private groups, to discuss housing and community development problems of California; investigate and report upon substandard housing and the problems resulting therefrom and the work being done to remedy such conditions; and promote the formation of organizations intended to increase the supply of adequate housing and the proper living environment for all the people of the state; and

**WHEREAS**, Pursuant to Section 18056.5 of the Health and Safety Code, the Commission of Housing and Community Development is authorized to adopt such regulations for the construction of mobilehomes as it determines are reasonably necessary in order to protect the health and safety of the occupants and the public when such regulations are not otherwise preempted by the National Mobile Home Construction and Safety Act of 1974 (42 U.S.C., Sec. 5401, et seq.); now therefore, be it

*Resolved, by the Assembly of the State of California, the Senate thereof concurring*, That using its authority, the Department of

Housing and Community Development shall, with the assistance of the Seismic Safety Commission, study the effects and costs of damages to mobilehomes and their owners and tenants caused by earthquakes; and be it further

*Resolved*, That the study shall include, but not be limited to, the following:

(a) Evaluation of the effects, as to added safety factors, of retaining the tires and axles or running gear, or both, on the mobilehomes.

(b) Determination of minimum earthquake resistant design standards for devices to anchor and protect mobilehomes from the effects of earthquakes.

(c) Development of alternative economical design concepts, including cost estimates.

(d) An estimate of costs for installing devices to anchor and protect mobilehomes from the effects of earthquakes.

(e) Determination of the requirements for the Department of Housing and Community Development to provide a review and certification process to ensure commercially available products for new and existing installations meet the specified design criteria.

(f) Identification of the preferred means to (1) ensure manufacturers offer certified devices to anchor and protect mobilehomes from the effects of earthquakes to new purchasers and (2) contact owners of existing mobilehomes to acquaint them with the standards and certification process.

(g) Determination and specification of the availability of federal or state funds or both for use by low-income mobilehome owners or tenants for the purpose of purchasing and installing of the above-described devices; and be it further

*Resolved*, That it is the intent of the Legislature that nothing in the regulations of the Commission of Housing and Community Development which may be adopted as a result of this study shall require (a) owners of existing mobilehomes to purchase or install devices to anchor and protect mobilehomes from the effects of earthquakes, and (b) purchasers of new mobilehomes to purchase such devices as a condition of purchasing a new mobilehome; and be it further

*Resolved*, That a report of the study described above shall be submitted by the Department of Housing and Community Development to the Assembly, on or before August 30, 1980; and be it further

*Resolved*, That the Chief Clerk of the Assembly transmit a copy of this resolution to the Commission of Housing and Community Development, the Department of Housing and Community Development, and the Seismic Safety Commission.

## RESOLUTION CHAPTER 100

Assembly Concurrent Resolution No. 112—Relative to directing the Commission on Peace Officer Standards and Training to include within its training program instruction in white collar crime and community participation in crime prevention.

[Filed with Secretary of State August 28, 1980 ]

WHEREAS, White collar crime and community participation in crime prevention has been identified by the Select Committee on Crime Prevention as a major problem in California; and

WHEREAS, Law enforcement personnel have indicated that additional information and training is needed with respect to the appropriate techniques for investigation of white collar crime and encouraging community participation in crime prevention; and

WHEREAS, The provision of such training to law enforcement personnel is consistent with the role of the Commission on Peace Officer Standards and Training; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Commission on Peace Officer Standards and Training is directed to include, within its basic course of instruction, the elements of white collar crime investigation and community participation in crime prevention; and be it further

*Resolved,* That optional courses for the training of specialists in the investigation of white collar crime and community participation in crime prevention be offered for those persons needing such training; and be it further

*Resolved,* That such instruction shall be provided only if Senate Bill No. 1428 of the 1979–80 Regular Session of the Legislature is chaptered, increasing the penalty assessment allocation to the Peace Officers' Training Fund; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit a copy of this resolution to the Commission on Peace Officer Standards and Training.

## RESOLUTION CHAPTER 101

Assembly Concurrent Resolution No. 152—Relative to lifeline gas and electric rates.

[Filed with Secretary of State August 28, 1980.]

WHEREAS, The concept of "lifeline" rates applicable to the residential consumption of gas and electricity was instituted several years ago to help cushion residential customers against repeated and enormous rate increases granted to gas and electric utility companies by the Public Utilities Commission due in large measure to the

skyrocketing price increases for crude petroleum; and

WHEREAS, The protection afforded by lifeline rates, which assure a basic minimum quantity of gas and electricity at a reasonable cost, is of particular importance to everyone and especially the poor, the elderly, and those on fixed incomes; and

WHEREAS, Recent gas and electric rate increases have come as a sudden and unexpected shock especially to those ratepayers living in coastal communities whose energy needs, particularly for heat, do not decrease during the summer months unlike those who live in the warmer inland regions; and

WHEREAS, It is necessary that the energy needs of persons residing in areas of the state with cooler climates be given greater consideration in the establishment of the lifeline quantities of gas and electricity applicable in the various climatic areas of the state, particularly increased needs during the summer months; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Public Utilities Commission is requested to review and revise the lifeline gas and electric rate structure applicable to customers who live in areas of the state with cooler climates to more nearly reflect their energy needs and, at the same time, review the manner in which lifeline rates are formulated to insure an equitable distribution of utility costs, taking into consideration the rates now paid by small and large residential and nonresidential ratepayers; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit a copy of this resolution to the Public Utilities Commission.

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## RESOLUTION CHAPTER 102

Assembly Concurrent Resolution No. 156—Relative to Women's Equality Day.

[Filed with Secretary of State August 28, 1980.]

WHEREAS, August 26, 1920, was the culmination of women's nationwide effort to gain the vote and this important chapter of American history deserves recognition; and

WHEREAS, Two hundred years after the founding of this Nation, women continue to encounter legal, economic, and social barriers to their full and equal participation in American life; and

WHEREAS, The women of the United States have united to assure that the task begun by the suffragists is completed and that opportunities are available to all citizens equally, regardless of sex; and

WHEREAS, August 26, the anniversary of the ratification of the Nineteenth Amendment, has been celebrated by American women

as a symbol of the progress they have achieved and the need they have for continued commitment to gain full equality; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the women of California be commended and recognized in their organization and activities; and be it further

*Resolved,* That the 60th Anniversary of the day on which women were first guaranteed the right to vote be recognized on August 26, 1980, as Women's Equality Day, and be observed with the appropriate ceremonies and activities.

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### RESOLUTION CHAPTER 103

Assembly Concurrent Resolution No. 157—Relative to the evaluation of educational programs.

[Filed with Secretary of State August 29, 1980.]

WHEREAS, The Legislature has been funding categorical educational programs for almost 20 years; and

WHEREAS, Funding for state and federal categorical programs in California now exceeds 1 billion dollars (\$1,000,000,000); and

WHEREAS, Categorical educational programs involve a number of complex rules and regulations; and

WHEREAS, Educational programs may provide overlapping services to the same students; and

WHEREAS, Formulas for identifying eligible students are often complex; and

WHEREAS, Administrative structures are complex and inadequate information is currently available to determine their appropriateness; and

WHEREAS, The Legislature enacted Chapter 282 of the Statutes of 1979 (AB 8), which requires that the Legislature conduct a thorough review of each of 19 categorical educational programs; and

WHEREAS, Item 13 of the Budget Act of 1980 (Chapter 510, Statutes of 1980) provides five hundred thousand dollars (\$500,000) to be used for the purposes of conducting the review mandated in Chapter 282 of the Statutes of 1979; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Speaker of the Assembly and the Senate Rules Committee appoint a Joint Ad Hoc Educational Sunset Review Committee for the purposes of studying the issues raised in Section 62006 of the Education Code, and related issues which members of that Joint Ad Hoc Committee deem to be essential and related to those issues.

## RESOLUTION CHAPTER 104

Assembly Joint Resolution No. 81—Relative to the fuel allocation program.

[Filed with Secretary of State August 29, 1980.]

WHEREAS, The federal Department of Energy administers a gasoline allocation program, pursuant to the Emergency Petroleum Allocation Act of 1973 (15 U.S.C. 151, et seq.); and

WHEREAS, As part of its gasoline allocation program, the Department of Energy allows states to administer a state set-aside program to allocate 5 percent of gasoline supplies and 4 percent of diesel fuel supplies within the state to meet hardship and emergency requirements of its citizens; and

WHEREAS, The State of California administers such a set-aside program in an effort to minimize the inefficiencies and inequities created by the Department of Energy's gasoline allocation program; and

WHEREAS, The Department of Energy has provided no reimbursement to the State of California for the costs associated with the administration of the set-aside program, despite the fact that the set-aside program exists primarily as a remedy for the problems created by the federal allocation system, even though the Emergency Petroleum Allocation Act of 1973 allows the Department of Energy to reimburse states for expenditures pursuant to that act; and

WHEREAS, The Department of Energy has been neither responsive nor timely in granting either upward adjustments in the existing gasoline allocations for Californian communities, businesses, and farms, or new gasoline allocations to new businesses and farms within California; and

WHEREAS, The Department of Energy has ignored requests by the California Legislature to appear before Legislative committee hearings to explain the federal gasoline allocation program and why it takes the Department of Energy so long to reach decisions, and the bases of its decisions concerning gasoline allocations; and

WHEREAS, The Department of Energy should provide full reimbursement to the State of California for the costs incurred by California in administering this federal program; and

WHEREAS, Agriculture is the number one industry in the number one agriculture producing state in the nation; and

WHEREAS, Within recent months, there have been critical shortages of aviation fuel in California which, if unabated, will jeopardize this state's production of high quality food and fiber for this country and the world; and

WHEREAS, The timely application of various nutrients by agricultural aircraft on farm products is crucial; and

WHEREAS, The State Fuel Allocation Office does not currently

have a set-aside allotment for aviation fuel; and

WHEREAS, The Legislature declares that every effort should be made by the oil company refiners in California to give a priority to agricultural users' aviation fuel needs; now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the Department of Energy to make every effort to improve and streamline its regulations dealing with the gasoline allocation program and to shorten the amount of time necessary to render relief to Californians experiencing fuel related hardships; and be it further

*Resolved,* That the Department of Agriculture and the Department of Energy is hereby memorialized to develop a program providing for the total current needs of all aviation fuels for agricultural purposes and respectfully memorializes the President and Congress of the United States to take all the necessary actions to ensure the implementation of such a program at the earliest possible date; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of Agriculture, to the Secretary of Energy, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 105

Senate Joint Resolution No. 31—Relative to shipbuilding and shipyard facilities.

[Filed with Secretary of State August 29, 1980 ]

WHEREAS, The United States of America is dependent upon the seas for commerce as well as survival; and

WHEREAS, Shipbuilding and shipyard facilities compose a basic and vital element of the national security assurance structure of the nation; and

WHEREAS, The prospects for the construction of merchant ships for the United States shipping fleet have been severely circumscribed by the absence of a forward-looking national maritime policy and program; and

WHEREAS, The current five-year plan for the construction of naval vessels for the United States Navy has been reduced from 157 to 97 ships; and

WHEREAS, As a result, the national security and economic interests of the United States may be endangered, shipbuilding production facilities may be idled, and gainful employment for skilled shipyard workers, including many women and minorities,

may be jeopardized; and

WHEREAS, Workers in many industries and activities which supply and support shipbuilding will also be affected; and

WHEREAS, These prospective conditions will sensitively impact on shipyards in the State of California, and, in turn, on the economy, industry, and people of the State of California; now, therefore, be it

*Resolved by the Senate and Assembly of the State of California, jointly,* That the Legislature of the State of California deploras the continuing inadequacy of national policymaking and decisionmaking in devising a comprehensive industrial strategy for shipbuilding to serve United States national interests; and be it further

*Resolved,* That the Legislature of the State of California memorializes the President and the Congress of the United States to promptly institute a coordinated, coherent, and effective policy and program which will ensure continuity and stability in the maintenance of essential shipyard resources and work forces, not only in the State of California but throughout the nation; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

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#### RESOLUTION CHAPTER 106

Senate Concurrent Resolution No. 81—Relative to the diethylstilbestrol program.

[Filed with Secretary of State August 30, 1980.]

WHEREAS, The implementation of a diethylstilbestrol (DES) program, as proposed and contained in Senate Bill 1392, would educate, identify, and screen persons exposed to DES while pregnant or prenatally, thereby significantly reducing the incidences of any related malignant conditions; and

WHEREAS, The State Department of Health Services would, pursuant to the provisions of Senate Bill 1392, if enacted, identify at least one screening and followup program for purposes of referral of persons exposed to DES; and

WHEREAS, The department would provide training if necessary for establishment of such a program; and

WHEREAS, The department would receive assistance from state agencies to enable the department to effectuate the DES program; and

WHEREAS, The department would be appropriated \$30,000 for purposes of the DES program and future appropriations would be

made for purposes of the program through the normal budgetary process; and,

WHEREAS, There may be sources of reimbursement or other recourse available to defray the state's costs in funding this program; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring,* That the Attorney General is hereby requested, utilizing all legal means available, to recover on behalf of the state the amount of the funds appropriated by the state to implement the provisions of the DES program, and the amount of the funds expended by the state for DES-related treatment; and be it further

*Resolved,* That the Secretary of the Senate transmit copies of this resolution to the Attorney General.

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### RESOLUTION CHAPTER 107

Assembly Concurrent Resolution No. 132—Relative to highway bridges.

[Filed with Secretary of State September 2, 1980.]

WHEREAS, Charles Edward Wagner was a pioneer industrial leader in Humboldt County and established at Briceland in 1900, the first tanbark extraction plant in the county, which was known as the Pacific Oak Extract Works and provided employment to scores of the early day homesteaders; and

WHEREAS, The shipping of bark and extract from Shelter Cove developed Shelter Cove into a commercial shipping point, since Mr. Wagner brought the first trucks to the area to engage in the haul to and from Shelter Cove and expended large sums in improving the road to this port; and

WHEREAS, Mr. Wagner was a leader in the development of Garberville, gave freely of his time and assisted in many local projects, and was instrumental in obtaining the necessary rights-of-way for the widening of Redwood Drive, which was then the main highway through Garberville; and

WHEREAS, Mr. Wagner was a most prominent civic leader in the early days of Garberville, and his many philanthropies and intense civic interest did much to further the development of the community; and

WHEREAS, For many years the Wagner family provided the building that housed the local branch of the county library at no cost to the community; and

WHEREAS, The people of Eureka have been saddened by the death of Richard F. "Dick" Denbo on March 24, 1980, a long-time resident of the community and a spirited force in the development of programs and objectives for the betterment of the community;

and

WHEREAS, Dick Denbo provided the leadership necessary for the attainment of those objectives by serving as manager of the Eureka Chamber of Commerce for more than 20 years, and during that time was instrumental in the development and construction of Samoa Bridge on State Highway Route 255; and

WHEREAS, It is a fitting tribute to the long years of community services rendered to the people of Humboldt County, especially the Garberville-Redway area, that the new bridge at Smith Point on State Highway Route 101 be named the "Charles Edward Wagner Memorial Bridge"; and

WHEREAS, It is a fitting tribute to the memory of Richard F. Denbo that his association with Samoa Bridge be memorialized; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the new bridge at Smith Point on State Highway Route 101, is hereby officially designated the Charles Edward Wagner Memorial Bridge; and be it further

*Resolved,* That the third and most westerly span of Samoa Bridge on State Highway Route 255 is hereby designated the Richard F. Denbo Memorial Span; and be it further

*Resolved,* That the Department of Transportation be directed to erect appropriate plaques and markers, consistent with signing requirements for the state highway system, showing these official designations; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit a copy of this resolution to the Director of Transportation.

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## RESOLUTION CHAPTER 108

Assembly Concurrent Resolution No. 147—Relative to diabetes.

[Filed with Secretary of State September 2, 1980.]

WHEREAS, Diabetes is a chronic disease afflicting as many as 1,200,000 Californians, or 5 percent of our population, and its incidence increases at 6 percent per annum; and

WHEREAS, One out of five Californians born this year will develop diabetes; and

WHEREAS, The Congress of the United States did, in 1973, enact legislation establishing the National Commission on Diabetes and the National Diabetes Advisory Board, and it is now congressional and executive branch policy to promote the study and care of diabetes as a model of chronic disease; and

WHEREAS, The executive branch has budgeted and the Congress of the United States has provided funds for planning grants, contracts, and feasibility studies to promote the study, control, and

therapy of diabetes; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the Governor, and his appointed officers in the State Department of Health Services, Chronic Disease Control Section, are hereby requested, if and to the extent federal funds are made available therefor, to develop a long range plan in the context of federal policy, in consultation with representatives of the California Society of Internal Medicine, American College of Physicians, California Chapter of the American Academy of Pediatrics, and the California Medical Association, and to implement programs to combat diabetes; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the Governor and his appointed officers in the State Department of Health Services, Chronic Disease Control Section.

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### RESOLUTION CHAPTER 109

Assembly Concurrent Resolution No. 159—Relative to home protection companies.

[Filed with Secretary of State September 2, 1980 ]

WHEREAS, The provisions of law relating to the payment of fees and commissions or other compensation paid in connection with the furnishing of a home protection contract are uncertain regarding the payment of inspection fees; and

WHEREAS, The Legislature intends to clarify these provisions of law at the earliest opportunity; now, therefore, be it

*Resolved,* That the Legislature urges the Department of Insurance to proceed with the licensing of home protection companies pursuant to Part 7 (commencing with Section 12740) of Division 2 of the Insurance Code, notwithstanding the uncertainty with respect to inspection fees; and be it further

*Resolved,* That the Legislature will seek to enact legislation not later than July 1, 1981, to resolve these uncertainties; and be it further

*Resolved,* That the Department of Insurance is hereby requested not to proceed against any home protection company for an alleged violation of Section 12760 of the Insurance Code, which is not clearly a violation of the section; and be it further

*Resolved,* That licensure by the department prior to the enactment of such legislation is not determinative in any way of any of the issues created by the uncertainties of existing law; and be it further

*Resolved,* That this resolution shall have no effect on and after January 1, 1982.

## RESOLUTION CHAPTER 110

Assembly Joint Resolution No. 83—Relative to library services.

[Filed with Secretary of State September 2, 1980 ]

WHEREAS, Senate Bill No. 1124, the proposed National Library Act, introduced by Senators Jacob K. Javits and Edward M. Kennedy, would consolidate in one comprehensive piece of federal legislation the principal suggestions made by various library groups during the past several years; and

WHEREAS, The proposed National Library Act does not provide guidelines, and planning and implementation grants, for community based ethnic library services; and

WHEREAS, Such guidelines and grants would facilitate the taking of population surveys and the subsequent determination of the library needs of the various ethnic populations; the training of library personnel and community representatives to deliver library services; the securing and processing of basic media resources, including, but not limited to, bilingual materials, foreign language books, films, tapes, and records; and the promotion and encouragement of diverse types of library information facilities in ethnic communities, including, but not limited to, information and referral centers, cultural and educational centers, and joint school and public library programs; and

WHEREAS, The ethnic populations in America represent an enormous potential source for library patronage; and

WHEREAS, Library services and programs can contribute to the recognition of these diverse ethnic groups and to the concept of ethnic pluralism; and

WHEREAS, Federally funded library services and programs that are directed to these ethnic groups will encourage them to support federal appropriations for libraries; and

WHEREAS, Federal legislation directed to the library needs of ethnic populations will encourage the necessary development of cooperation among community based ethnic groups, public libraries, schools, and institutions of higher education; now, therefore, be it

*Resolved by the Assembly and the Senate of the State of California jointly,* That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to enact legislation that promotes the development of community based ethnic library services that meet the needs of the country's diverse ethnic populations and that provides funds for population surveys, for securing and processing basic media resources, and for encouraging cooperation among community based ethnic groups, public libraries, schools, and institutions of higher education in the planning, delivery, and evaluation of library programs for ethnic populations in the community; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of

this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

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### RESOLUTION CHAPTER 111

Assembly Joint Resolution No. 85—Relative to the Raoul Wallenberg case.

[Filed with Secretary of State September 2, 1980.]

WHEREAS, In 1944, Raoul Wallenberg undertook a diplomatic mission of mercy to Budapest on behalf of and in cooperation with the United States Department of State; and

WHEREAS, As a result of this U.S. sponsored mission, the lives of thousands of current U.S. citizens were saved; and

WHEREAS, In violation of internationally recognized standards of diplomatic immunity, Wallenberg was kidnapped by occupying Soviet forces in 1945; and

WHEREAS, Soviet officials originally denied having custody of Wallenberg; then subsequently reversed themselves claiming that Wallenberg died in a Soviet prison in 1947; and

WHEREAS, A steady stream of reports spanning three decades indicates that Wallenberg did not die in 1947, but is still alive today in a Soviet prison; and

WHEREAS, History has revealed that heroic acts of salvation were tragically rare during the massacre of European Jewry, and the significance of this symbol of man's concern for his fellow men has been tainted by the wall of silence that surrounds his fate; and

WHEREAS, The passage of time and destruction of records in the Soviet Union could have led to the confusion and misinformation about Wallenberg; and

WHEREAS, This serious error could be rectified by a reopening of the records; and

WHEREAS, The Swedish government is currently undertaking an international hearing regarding the case of Raoul Wallenberg; now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California hereby commends the Swedish government in undertaking the first international hearings regarding the case of Raoul Wallenberg; and be it further

*Resolved,* That the Legislature of the State of California requests that the Secretary of State of the United States call upon the Soviet Union to reexamine the records in this matter; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of

this resolution to the Swedish government and to the Secretary of State of the United States.

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## RESOLUTION CHAPTER 112

Assembly Joint Resolution No. 87—Relative to energy resources.

[Filed with Secretary of State September 2, 1980.]

WHEREAS, The Legislature of the State of California has declared wind, geothermal, and solar energy an important element of the state's energy supply mix; and

WHEREAS, The State Energy Resources Conservation and Development Commission, in its biennial report to the Governor and Legislature, recommends that first priority be given to geothermal and renewable energy resources when determining need for new electrical capacity; and

WHEREAS, Energy from wind, geothermal, and solar resources can replace use of foreign oil and reduce air pollution, and energy from wind can reduce consumptive use of water for powerplant cooling; and

WHEREAS, Approximately 40 percent of the state's wind resources and 50 percent of the state's geothermal resources are located in the southeastern desert; and

WHEREAS, The United States Bureau of Land Management (BLM) is considering alternative uses for their lands in the California desert and will recommend a land use plan in September 1980; and

WHEREAS, The Federal Land Policy and Management Act of 1976 requires the full assessment of BLM lands for the production of energy and mineral resources; and

WHEREAS, The extent and value of wind and mineral resources on the California desert have not been fully assessed; and

WHEREAS, Two of the three alternative land use plans currently proposed by the United States Bureau of Land Management substantially preclude the production of geothermal, wind, and solar energy and the development of mineral resources; now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the Secretary of the Interior to require the United States Bureau of Land Management to do all of the following with respect to lands administered by the Bureau of Land Management:

(a) Adequately inventory and evaluate, in cooperation with the Department of Energy and the State Energy Resources Conservation and Development Commission, the wind and solar energy resources in the California desert.

(b) Classify those areas with potential wind or solar energy

resource potential in a land use classification which will permit the full and expeditious development of that energy resource consistent with established environmental criteria.

(c) Adequately inventory and evaluate, in cooperation with the United States Bureau of Mines, the United States Geological Survey, and the Division of Mines and Geology of the Department of Conservation of this state, the mineral resources in the California desert.

(d) Classify those areas with potential mineral resource development potential in a land use classification which will permit the full and expeditious development of that mineral resource consistent with established environmental criteria.

(e) Designate transmission corridors to connect the wind and known geothermal resource areas with the power grid.

(f) Classify those areas which are presently known geothermal resource areas and those areas which are potential geothermal resource areas in a land use classification which will permit the full and expeditious resource assessment and development of the geothermal resource consistent with established environmental criteria; and be it further

(g) Consider fully any impact which the planning efforts will have upon energy or mineral or other resources on state lands administered by the State Lands Commission and cooperate closely with the State Lands Commission in further efforts on the plant development; and be it further

*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Secretary of the Interior, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

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### RESOLUTION CHAPTER 113

Assembly Joint Resolution No. 88—Relative to energy conservation financing.

[Filed with Secretary of State September 2, 1980]

WHEREAS, The Governor and the Legislature of the State of California, the Public Utilities Commission of this state, and the State Energy Resources Conservation and Development Commission have determined that California faces an energy shortage arising from the increasing demand for energy, particularly for oil and natural gas, and insufficient domestic supplies of oil and natural gas to satisfy that demand; and

WHEREAS, Providing California residents with adequate supplies of energy; facilitating the efficient use of that energy; reducing

reliance on imported and domestic energy sources; and protecting the environment are essential to the continued welfare and prosperity of the people of the State of California; and

WHEREAS, The Pacific Gas and Electric Company has proposed two interest-free loan programs to assist residential customers to accomplish these goals; and

WHEREAS, The Pacific Gas and Electric Company's zero interest plans will enable its residential customers to install cost-effective energy conservation measures and renewable resource measures; and

WHEREAS, The Weatherization Zero Interest Plan will finance, without interest all cost-effective measures including, but not limited to, ceiling, wall, floor and duct insulation, storm windows and doors, weatherstripping, caulking, water heater insulation wrap, automatic setback thermostats, lighting conversion, and intermittent ignition devices; and

WHEREAS, During the test phase, it is estimated that the Weatherization Zero Interest Plan will save 56 million kilowatt hours of electricity and 41 million therms of gas, which is equivalent to approximately 750,000 barrels of oil; and

WHEREAS, The Solar Zero Interest Plan will finance, with zero or low interest, the installation of domestic solar water heating systems; and

WHEREAS, The Solar Zero Interest Plan will annually save an estimated 77 million kilowatt hours of electricity and 7.1 million therms of gas, which is equivalent to approximately 237,000 barrels of oil; and

WHEREAS, These Pacific Gas and Electric Company no-interest and low-interest loan programs will reduce energy consumption and California's dependence on foreign and domestic fossil fuels; now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the United States Secretary of Energy to take appropriate actions and adopt such rules and regulations as are necessary to ensure prompt implementation of the Energy Security Act as it amends provisions of the National Energy and Conservation Policy Act relating to energy conservation financing; and be it further

*Resolved,* That the Public Utilities Commission of this state give continued special priority to consideration of Pacific Gas and Electric Company's two such zero interest plans and reach a decision on such applications as soon as possible; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the United States Secretary of Energy, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the President and each Member of the Public Utilities Commission of this state.

## RESOLUTION CHAPTER 114

Assembly Joint Resolution No. 90—Relative to funding the Olympic Games.

[Filed with Secretary of State September 2, 1980.]

WHEREAS, The United States Olympic athletes must be of amateur status and require public financed support; and

WHEREAS, Many Americans support the Olympic effort and are desirous of a means to contribute at least a small financial amount to this effort; and

WHEREAS, Existing federal tax law does permit the taxpayer to designate \$1 of tax for presidential campaign purposes; now, therefore; be it

*Resolved, by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President and the Congress of the United States to make the necessary revisions in federal tax law to allow for a \$1 voluntary tax designation for funding of United States Olympic athletes and their participation in the Olympic Games; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

## RESOLUTION CHAPTER 115

Assembly Joint Resolution No. 92—Relative to National Port Week.

[Filed with Secretary of State September 2, 1980.]

WHEREAS, The past development of the public ports of the United States is the result of a fruitful partnership in which state and local authorities have assumed major responsibilities for land-based port development with the federal government constructing and maintaining the navigable waterways and harbors of the United States; and

WHEREAS, The economic, social, and cultural developments in the history of the port cities and states have mirrored the conditions of the ports of the United States; and

WHEREAS, Ports serving our waterborne commerce are responsible for the creation and continued employment of more than one million workers and an annual contribution in excess of \$56,000,000,000 to our nation's economic well-being; and

WHEREAS, The development of our nation's ports is

indispensable to our foreign trade and vital for the achievement of a favorable balance of trade; and

WHEREAS, Viable ports are necessary to national security and the maintenance of an adequate defense; and

WHEREAS, The continued development of ports is being adversely affected by economic, physical, and other factors, including the problems associated with the adequacy of the harbors and channels; and

WHEREAS, The ability of the public ports to continue their vital contribution to national security and welfare may be in question; and

WHEREAS, There is an urgent need for continuing attention to the needs of the public ports; now, therefore, be it

*Resolved, by the Assembly and the Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the Congress of the United States to designate the week beginning on October 5, 1980 as "National Port Week"; and be it further

*Resolved,* That the Legislature of the State of California respectfully memorializes the Congress of the United States to support legislation requiring the Secretary of Commerce to report annually on the conditions of the public ports in this country; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 116

Assembly Joint Resolution No. 95—Relative to federal wilderness areas.

[Filed with Secretary of State September 2, 1980 ]

WHEREAS, The House of Representatives on August 18, 1980, passed a bill which will create an additional 2,000,000 acres of federal wilderness areas; and

WHEREAS, This bill was processed through the House of Representatives without taking time for public hearings which effectively precluded members of the public from providing testimony on the effect of the proposed wilderness areas; and

WHEREAS, The creation of additional federal wilderness areas may have a significant adverse impact upon employment, recreation, timber, mineral, and energy production, and private lands, particularly in the northern counties of California; now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the United States Senate Committee on Natural Resources to hold full public hearings, including hearings in northern California, to assess the economic impact which the proposed federal wilderness areas contained in the bill passed by the House of Representatives would have on the state; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the Chairman of the United States Senate Committee on Natural Resources, and to each Senator and Representative from California in the Congress of the United States.

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### RESOLUTION CHAPTER 117

Assembly Joint Resolution No. 97—Relative to the Marine Mammal Protection Act of 1972.

[Filed with Secretary of State September 2, 1980.]

WHEREAS, The Marine Mammal Protection Act of 1972 requires tuna fishermen to take extraordinary measures to minimize the incidental mortality of marine mammals; and

WHEREAS, The National Marine Fisheries Service has promulgated specific regulations that require fishermen to release marine mammals from fishing nets; and

WHEREAS, Section 216.24 (d) (2) (vii) (F) of Title 50 of the Code of Federal Regulations requires the use of rubber rafts, face masks, and snorkels by crew members to assist in disentangling and releasing live marine mammals from the tuna nets and further requires such crew members to make every effort to remove the marine mammals from the nets during rescue operations; and

WHEREAS, This regulation can be construed to require crew members to take personal risks, including entering the water; and

WHEREAS, In an effort to release porpoises in compliance with the goals of the Marine Mammal Protection Act of 1972, Jerry Correia, a crew member of the fishing vessel "Calypso" tragically lost his life when attacked by a shark; and

WHEREAS, This extremely unfortunate accident might have been avoided if the federal regulation had more adequately and specifically recognized the paramount need to protect and safeguard human life; now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California respectfully requests the Secretary of the Department of Commerce to immediately review the regulations promulgated pursuant to the Marine Mammal Protection Act of 1972 relating to the release of marine mammals from commercial tuna nets in order to assure that

such regulations do not require fishing vessel crew members to enter the water and otherwise compromise their safety; and be it further

*Resolved*, That the secretary is requested to take all steps necessary to insure that such changes in the Code of Federal Regulations are expeditiously promulgated; and be it further

*Resolved*, That the Chief Clerk of the Assembly transmit copies of this resolution to the Secretary of Commerce and to each Senator and Representative from California in the Congress of the United States.

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## RESOLUTION CHAPTER 118

Senate Joint Resolution No. 44—Relative to Alaskan energy resources.

[Filed with Secretary of State September 5, 1980.]

WHEREAS, The United States now imports more than half of its oil from other countries; and

WHEREAS, The United States petroleum production has been declining for the past decade; and

WHEREAS, The United States will need expanded supplies of domestic energy to assure its economic and sovereign future; and

WHEREAS, Under the wilderness land study program the federal government is withholding 68 million acres of land from development of any kind; and

WHEREAS, According to the Department of Energy, 40 percent of the impounded land may cover millions of barrels of oil and trillions of cubic feet of natural gas, all of which is being denied us while the federal government decides which part will be set aside under the wilderness program; and

WHEREAS, More than one-third of the nation's entire remaining energy potential probably lies untapped in Alaska, including oil, natural gas, and coal fields; and

WHEREAS, Canadian studies indicate that the Arctic Ocean-Polar Ice Cap areas Canada shares with Alaska may contain larger oil reserves than those of the Organization of Petroleum Exporting Countries; and

WHEREAS, There are efforts to close off vast tracts of resource-rich Alaskan lands; and

WHEREAS, It is important that limited exploration be permitted prior to permanently setting aside these lands; and

WHEREAS, In the event such exploration justifies the development of energy resources in this area, it is important that reasonable opportunity be provided to obtain these invaluable resources; now, therefore, be it

*Resolved by the Senate and Assembly of the State of California,*

*Jointly*, That the Legislature of the State of California supports the concept of rational exploration and a variety of uses for all public lands, including those in Alaska; and be it further

*Resolved*, That the Legislature of the State of California opposes legislation which will further encourage dependency on foreign resources and opposes any decisions to set aside such wilderness areas without weighing the potential benefits such as energy resources and which eliminate even the possibility of making those determinations in future generations; and be it further

*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President and Vice President of the United States, to each Member of the Congress of the United States, and to the Secretary of the United States Department of Interior.

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### RESOLUTION CHAPTER 119

Senate Joint Resolution No. 24—Relative to the arrival of Indochinese refugees in the United States.

[Filed with Secretary of State September 5, 1980 ]

WHEREAS, In the past year, the United States has received 338,000 refugees, including 150,000 Cubans and Haitians; and

WHEREAS, The world has witnessed the massive exodus of more than 1.5 million people from their homes in Vietnam, Laos, and Cambodia since the fall of Saigon in 1975; and

WHEREAS, There are approximately 250,000 Indochinese refugees in more than 40 refugee camps and transit centers in Thailand, Hong Kong, Malaysia, Indonesia, the Philippines, Singapore, Korea, and Taiwan; and

WHEREAS, An additional 140,000 Cambodians are living in "holding centers" in Thailand and an estimated 150,000 Cambodians are living in various types of encampments along the Thai-Cambodian border; and

WHEREAS, War and starvation have reduced the population of Cambodia by 50 percent since 1975, and the famine is expected to continue next year since only 10 percent of Cambodia's arable land has been cultivated; and

WHEREAS, A large number of the seaborne Vietnamese refugees, known as "boat people," have perished as a result of adverse weather conditions, the unseaworthy conditions of their boats, overcrowding, inadequate food and medical supplies, shelling by Vietnamese security patrols, and vicious acts of piracy; and

WHEREAS, The neighboring governments of Thailand, Singapore, Malaysia, Hong Kong, Indonesia, the Philippines, and Taiwan are unable to accept and maintain a massive infusion of additional refugees because the existing refugee camps in those

countries are already overcrowded, and because those governments are economically unable to expand the operations of the camps in their jurisdictions and absorb the refugees into their own populations; and

WHEREAS, The United Nations High Commissioner on Refugees has virtually exhausted its financial resources to provide for the needs of the 16 million refugees around the world; and

WHEREAS, Human rights violations in the Socialist Republic of Vietnam, and especially the government's despotic racial policies towards its ethnic Chinese minorities, comprise an affront to the decent opinion of mankind; and

WHEREAS, The United States of America was founded as a nation of immigrants, many of whom came here to escape persecution and poverty in their native lands; and

WHEREAS, Each succeeding generation of immigrants has made an important contribution to the economic and cultural vitality of the United States; and

WHEREAS, Thirty percent of the Indochinese refugees in the United States originally settled in California, and many of those who first settle in other states will eventually move to California because of the similarity in climate between their homelands and California, because the large Asian population in California provides necessary cultural and social support, and for purposes of family reunification; and

WHEREAS, The fragmentary and uncoordinated nature of government programs affecting refugees and immigrants is a major hindrance to community-based volunteer agencies and local officials; and

WHEREAS, A substantial financial commitment for special social services will be needed to help Indochinese refugees become self-sufficient participants in American society; and

WHEREAS, Precedent for such a commitment was established by earlier federal efforts and current programs to assist refugees from the Soviet Union, Hungary, and Cuba resettling in the United States; and

WHEREAS, Arbitrary time limitations on federal funding for special social services to refugees would place an unfair fiscal burden upon the State of California and upon other states with large numbers of refugees; now, therefore, be it

*Resolved by the Senate and Assembly of the State of California, jointly,* That the Socialist Republic of Vietnam is to be condemned for its racially and economically motivated policy of forcibly deporting up to one million of its own citizens; and be it further

*Resolved,* That the President and the Congress of the United States are urged to use their best offices to persuade the Socialist Republic of Vietnam to cease its inhumane policies of deportation, harassment, and exploitation of the ethnic Chinese minority in that country; and be it further

*Resolved,* That the President, the Secretary of State, the numerous

voluntary agencies, and private citizens who have already provided aid to the people of Cambodia are to be commended for their work and are urged to continue their efforts; and be it further

*Resolved*, That the President of the United States is to be commended for his humane decision to increase to 14,000 the maximum monthly quota of Indochinese refugees permitted to enter the United States, to deploy U.S. naval forces to provide food and repairs to Indochinese refugee vessels and to prevent acts of piracy against such vessels, and he is urged to maintain this quota; and be it further

*Resolved*, That the Congress is urged to appropriate such funding as is necessary for the orderly admission of the full authorized monthly quota of Indochinese refugees; and be it further

*Resolved*, That the Congress is urged to provide assurance of three or more years of funding for special social services for Indochinese refugees, such as English language training, job training and placement, mental health counseling, health services, and housing assistance, as is necessary to help them become self-sufficient and productive members of American society as soon as possible; and be it further

*Resolved*, That the President and the Secretary of State are urged to work actively to persuade other nations to: (1) accept an equitable share of the Indochinese refugee population; (2) provide immediate financial assistance to support the temporary refugee camps in Thailand, Singapore, Malaysia, Hong Kong, Indonesia, the Philippines, and Taiwan; and (3) participate in other international refugee resettlement efforts; and be it further

*Resolved*, That the President and the Congress are requested to develop a well-administered and well-coordinated program which is national in scope for the resettlement of refugees within the United States; and be it further

*Resolved*, That the appropriate authorities are urged to involve members of existing refugee communities in the United States in the design and administration of resettlement efforts; and be it further

*Resolved*, That the Governor of California is urged to affirm the state's commitment to the needs of the numerous refugees and immigrants by establishing, as a part of the Governor's Office, an Office of Refugee and Immigrant Affairs which shall (1) represent the interests of the state in discussions and negotiations at the national and local levels regarding assistance to refugees and immigrants; and (2) be responsible for coordinating the various programs affecting refugees and immigrants which are administered through the departments and agencies of state government; and be it further

*Resolved*, That the Secretary of the Senate transmit copies of this resolution to the President of the United States; to the U.S. Secretary of State; to the U.S. Ambassador on Refugee Affairs; to the Chairman and members of the U.S. Senate Judiciary Committee; to the Chairman and members of the U.S. House Subcommittee on

Immigration, Refugees, and International Law; to both Senators and to each Representative of California in the Congress of the United States; to the Select Commission on Immigration and Refugee Policy; to the U.N. High Commissioner on Refugees; to the Governor of California; and to each member of the Boards of Supervisors of Los Angeles, Orange, San Diego, San Francisco, Santa Clara, Alameda, and Sacramento Counties.

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## RESOLUTION CHAPTER 120

Senate Concurrent Resolution No. 73—Relative to food push carts.

[Filed with Secretary of State September 5, 1980 ]

WHEREAS, The California Restaurant Act, contained in Chapter 11 (commencing with Section 28520) of Division 22 of the Health and Safety Code, regulates restaurants, itinerant restaurants, vehicles, and vending machines; and

WHEREAS, Articles 10 (commencing with Section 13600) and 10.1 (commencing with Section T17-13611) of Group 2 of Subchapter 2 of Chapter 5 of Title 17 of the California Administrative Code, regarding mobile food preparation units and commissaries servicing mobile food preparation units, do not expressly apply to food push carts; and

WHEREAS, The operation of food push carts, whereby precooked hot dogs are heated and assembled on a bun to be sold to the public, has become a popular manner for the public to obtain a lunch or snack at a reasonable cost, and accordingly, the business of selling hot dogs to the public from food push carts is rapidly growing; and

WHEREAS, Food push carts are not expressly defined as vehicles or mobile food preparation units, or both, as set forth in Articles 10 (commencing with Section 13600) and 10.1 (commencing with Section T17-13611) of Group 2 of Subchapter 2 of Chapter 5 of Title 17 of the California Administrative Code; and

WHEREAS, Article 4 (commencing with Section 28640) of Chapter 11 of Division 22 of the Health and Safety Code would, if made expressly and specifically applicable to food push carts, properly regulate food push carts in terms of public health and safety; and

WHEREAS, Properly regulated food push carts will pose no health hazard to the public but rather will benefit large segments of the population; and

WHEREAS, It will be to the benefit and best interest of the public and the operators of food push carts that Article 4 (commencing with Section 28640) of Chapter 11 of Division 22 of the Health and Safety Code be expressly and specifically made to govern food push carts to ensure the maintenance of proper health standards only; now,

therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring*, That Article 4 (commencing with Section 28640) of Chapter 11 of Division 22 of the Health and Safety Code is applicable to food push carts; and be it further

*Resolved*, That food push carts are not expressly defined as vehicles or mobile food preparation units, or both, as set forth in Articles 10 (commencing with Section 13600) and 10.1 (commencing with Section T17-12611) of Group 2 of Subchapter 2 of Chapter 5 of Title 17 of the California Administrative Code; and be it further

*Resolved*, That the State Department of Health Services adopt appropriate and reasonable rules and regulations applicable to food push carts by January 1, 1981; and be it further

*Resolved*, That the Secretary of the Senate transmit a suitably prepared copy of this resolution to the State Director of Health Services.

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## RESOLUTION CHAPTER 121

Senate Concurrent Resolution No. 59—Relative to noncustodial treatment of mentally disordered offenders.

[Filed with Secretary of State September 5, 1980.]

WHEREAS, Under existing law six different statutes currently apply to noncustodial treatment of mentally disordered offenders; and

WHEREAS, These six statutes are not consistent in at least the following regards:

- (1) Length of, or requirement for, mandatory minimum inpatient treatment prior to release on outpatient status or parole.
- (2) Procedure for initiation of outpatient or parole status.
- (3) Notice requirements, including who gets notice and who gives notice of pending outpatient or parole status.
- (4) Whether or not a court hearing is required.
- (5) Whether or not specific court approval is required (e.g., in four of the categories inaction by the court on a request for outpatient treatment is tantamount to approval).
- (6) Procedure for revocation of outpatient or parole status.
- (7) The length of time that the outpatient or parole status remains effective and the procedure for termination upon completion of that time period; and

WHEREAS, In addition to the inconsistencies in the statutes, there has not been consistent implementation of the statutes throughout the state; now, therefore, be it

*Resolved by the Senate of the State of California, the Assembly thereof concurring*, That the Legislature of the State of California

requests the performance of an independent study to review the statutes relating to the noncustodial treatment of mentally disordered offenders and the state and local programs implementing these statutes; and be it further

*Resolved*, That the study and report include the following matters:

(1) What is the frequency of offenses by persons on these programs?

(2) How does the frequency of offenses compare to other identifiable groups?

(3) Compare and contrast the programs in five selected counties regarding the administration of the programs and supervision of its participants.

(4) Is there any significant difference in the implementation of these statutes between Atascadero and Patton State Hospitals?

(5) Compare and contrast parole programs under subdivisions (c) and (d) of Section 7375 of the Welfare and Institutions Code, and outpatient programs under Section 6325.1 and subdivision (f) of Section 7375 of the Welfare and Institutions Code and Sections 1026.1, 1370.3 and 1374 of the Penal Code.

(6) What factors are identified by the administrators of the outpatient and parole programs as indicators of patient success, and what level or frequency of success has been demonstrated?

(7) Such other factors as determined to be relevant; and be it further

*Resolved*, That findings be reported to the Legislature by July 1, 1981; and be it further

*Resolved*, That the sum of sixty-five thousand dollars (\$65,000) is hereby allocated from the contingent funds of the Senate and Assembly to the Joint Rules Committee to contract with an independent entity for a thorough and objective study of the issues described in this resolution.

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## RESOLUTION CHAPTER 122

Assembly Concurrent Resolution No. 139—Relative to the Public Employees' Retirement System.

[Filed with Secretary of State September 8, 1980.]

WHEREAS, The Public Employees Retirement Law establishes a "state industrial member" category which extends industrial death and disability benefits to state employees killed or injured by inmates of a facility of the Department of Corrections or the Department of the Youth Authority; and

WHEREAS, This benefit recognizes the hazard inherent with working in these facilities and provides retirement benefits to the employee or his family for permanent disability or death resulting

from an attack by an inmate; and

WHEREAS, Without this benefit, employees and their families would be unable to provide for themselves as a result of permanent disability to, or the death of, the employee; and

WHEREAS, A study conducted by the Department of Finance in March 1979 indicated that additional study is needed to determine if industrial member benefits should be extended to other categories of state employees; and

WHEREAS, The State Personnel Board has been charged to study and develop criteria for safety category retirement and has the expertise to study and develop criteria for the "Industrial Member" category; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the State Personnel Board, in cooperation with the Department of Finance, shall develop objective criteria for determining the application of the state industrial category of membership in the Public Employees' Retirement System to positions in the state service and shall then determine which classes of positions meet all or part of the elements of the criteria and shall list the positions in order based upon the degree in which their duties meet the criteria, with first priority for such application to the employees of the Department of Transportation and the State Department of Health Services; and be it further

*Resolved,* That the Public Employees' Retirement System and employing agencies shall assist and cooperate with the board in preparation of the report, which the board shall transmit a report thereon to the Legislature at the commencement of each session of the Legislature until the study is completed, and the board shall initially give immediate priority to a study of the employees of the Department of Transportation and the treatment staff of the state hospitals and transmit a report thereon to the Legislature on or before July 1, 1981; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit a copy of this resolution to the State Personnel Board.

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### RESOLUTION CHAPTER 123

Assembly Concurrent Resolution No. 158—Relative to commending the Honorable John T. Knox.

[Filed with Secretary of State September 8, 1980]

WHEREAS, The members desire to take this opportunity to extend their highest commendations to one of their fellow legislators, the Honorable John Knox, who, since 1960, has represented the 11th Assembly District with dedication and concern for the best interests of the public and his constituents; and

WHEREAS, Assemblyman Knox is currently serving his third term as Assembly Speaker pro Tempore, the second highest leadership position in the Assembly, and has chaired important and influential committees during his career in the Legislature, among them, the Local Government Committee, the Joint Legislative Committee on Tort Liability, the Assembly Select Committee on the Revision of the Nonprofit Corporations Code, the Assembly Select Committee on the California Limited Partnership Act, and the Assembly Select Committee on the Revision of the Corporations Code, and has also served as a member of the Sir Francis Drake Commission; and

WHEREAS, During his 20 years of service, Mr. Knox has authored numerous pieces of important legislation, including the Knox-Keene Health Care Service Plan Act of 1975; the General Corporation Law, the Nonprofit Corporation Law, the Corporate Securities Act of 1968, the Municipal Organization Act of 1977, the Knox-Nisbet Act, and the "Save the Bay" bill establishing the San Francisco Bay Conservation and Development Commission; and

WHEREAS, Assemblyman Knox is widely recognized as an authority on local government in California, having served for 13 years as Chairman of the Assembly Local Government Committee and through his sponsorship of hundreds of bills affecting local government; and

WHEREAS, Among the many awards John Knox has received are the Second Annual Bay Area Environment Award from the Bay Area Council, California Assemblyman of the Year 1979 from the California Trial Lawyers Association, the American Civil Liberties Union Award, and the Medal of Honor 1960-1980 from the California Manufacturers Association; and

WHEREAS, Born in Reno, Nevada, Assemblyman Knox received his bachelor of arts degree from Occidental College, and is an alumnus of Hastings College of the Law; and

WHEREAS, Assemblyman Knox married the former Jean Henderson in 1949 and has three children, John, Charlotte Marie, and Mary Lucretia; and

WHEREAS, In addition to his legislative accomplishments, John Knox has donated his time to provide free legal services to indigent persons and organizations, as well as being an active member of numerous charitable and civic organizations, and local bar associations; now, therefore, be it

*Resolved by the Assembly of the State of California, the Senate thereof concurring,* That the members commend their good friend and longtime colleague, the Honorable John Knox, upon his years of devoted and highly effective service to his community and state as a Member and Speaker pro Tempore of the Assembly of the State of California, and extend to him best wishes for every success in his future endeavors; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit a suitably prepared copy of this resolution to the Honorable John Knox.

## RESOLUTION CHAPTER 124

Assembly Joint Resolution No. 96—Relative to the disposal of nuclear waste off the California coast.

[Filed with Secretary of State September 8, 1980 ]

WHEREAS, Nuclear waste material has been deposited off the coast of California including the site near the Farallon Islands and San Francisco Bay and constitutes a potentially grave health hazard to the residents of all communities on the west coast; and

WHEREAS, The Special Subcommittee on Energy, Environment, and Natural Resources of the United States House of Representatives is currently studying the problem of nuclear waste disposal; now, therefore, be it

*Resolved by the Assembly and Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the Special Subcommittee on Energy, Environment, and Natural Resources, to assist in obtaining for thorough study by interested parties in the Counties of Marin, San Francisco, and all other coastal counties in the State of California, and by interested parties within the government of the State of California the following information:

(a) The location of each and every nuclear waste disposal site located in ocean waters off the California coast.

(b) The present condition of each disposal site and waste containers.

(c) The public health danger associated with each located site.

(d) The possibilities of lessening that danger or methods of coping with that danger; and be it further

*Resolved,* That the special subcommittee join with the State of California to devise and implement a funded, ongoing monitoring program for each waste disposal site located, including radiological testing of fish and other sea life recovered at and around dump sites and epidemiological studies to assess health effects on humans with regular analyses and reports to be more available to the citizens of the State of California; and be it further

*Resolved,* That the subcommittee request the Environmental Protection Agency to do further testing and investigation and to make their findings available immediately for public scrutiny; and be it further

*Resolved,* That funds for these projects and studies be available on a two-thirds federal and one-third state matching basis; and be it further

*Resolved,* That the Chief Clerk of the Assembly transmit copies of this resolution to the President and Vice President of the United States, to the Speaker of the House of Representatives, to each Senator and Representative from California in the Congress of the United States, and to the Clerk of the United States House of

Representatives.

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RESOLUTION CHAPTER 125

Assembly Joint Resolution No. 98—Relative to Jewish emigration from the Union of Soviet Socialist Republics.

[Filed with Secretary of State September 8, 1980 ]

WHEREAS, The Union of Soviet Socialist Republics is a signatory of the Universal Declaration of Human Rights which declares that “everyone shall be free to leave any country including his own”; and

WHEREAS, The USSR is a signatory of the Helsinki Final Act of 1975, which declares that the “participating states will deal in a positive and humanitarian spirit with the applications of persons who wish to be reunited with members of their families”; and

WHEREAS, The Soviet Union initiated new restrictions on emigration of Jewish individuals residing in the Ukraine in May of 1979, by denying applications when the required letter of invitation from a family member in Israel was from a relative more distant than a parent, spouse, child, or sibling; and

WHEREAS, This denial of emigration visas on the grounds of “insufficient kinship” became widespread through the Soviet Union by the end of 1979; and

WHEREAS, The new restrictions have severely curtailed Jewish emigration, with only 16,000 exit visas being granted thus far in 1980, compared to 27,500 for the corresponding period of 1979, a decrease of approximately 42 percent; and

WHEREAS, The trend of decreasing Jewish emigration is growing dramatically in 1980, from 3,049 in March; to 2,469 in April; to 1,976 in May; to 1,620 in June; to 1,204 in July; and to only 327 for the first half of August; and

WHEREAS, Acts of anti-Semitism, including harrassment, arrests, and discrimination in education and employment have increased in recent months; and

WHEREAS, The combination of new emigration policies and increased harrassment has directly affected the willingness of Jewish families to solicit letters of invitation from relatives in Israel, with a resultant decrease in requests from an average of 10,750 per month in 1979, to 4,250 per month for the first four months of 1980; and

WHEREAS, Many of the emigration offices in the Soviet Union allegedly closed temporarily during the Summer Olympics have not yet reopened; now, therefore, be it

*Resolved by the Assembly and the Senate of the State of California, jointly,* That the Legislature of the State of California respectfully memorializes the President of the United States to urge the Soviet Union to abide by its commitments to the Universal Declaration of

Human Rights and to the Helsinki Final Act of 1975; and be it further  
*Resolved*, That the President of the United States shall endeavor to influence the Soviet Union to abandon its restrictive emigration policies and to allow the free emigration of Jewish individuals from the Soviet Union; and be it further

*Resolved*, That the Chief Clerk of the Assembly transmit a copy of this resolution to the President of the United States.